

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 146 of 1990

Date of Decision : 17.6.1991.

~~Ex No~~

<u>Mr. N.B. Anand and 69 others</u>	Petitioner.
<u>Mr. T. Jayant</u>	Advocate for the petitioner (s)
Versus	
<u>Union of India and 2 others</u>	Respondent.
<u>Mr. N. Bhaskar Rao, Addl. CGSC</u>	Advocate for the Respondent (s)

17

CORAM :

THE HON'BLE MR. B.N. Jayasimha, Vice Chairman

THE HON'BLE MR. J. Narasimha Murthy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *m*
2. To be referred to the Reporter or not ? *m*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *m*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *m*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HBNJ
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VC

HJNM
HJNM
M(J)

(88)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.146 of 1990

DATE OF JUDGMENT: 17.6.1991

BETWEEN:

S/Shri

1. N.B.Anand
2. N.Babu Rao
3. Laxmaiah
4. THRS Chauhan
5. B.N.Swamy
6. S.Malla Reddy
7. Y.Sreeramulu
8. M.Ramachander
9. Sree Ramulu
10. A.Shankaraiah
11. D.Bal Raj
12. B.Anjaiah
13. C.Babu Rao
14. Mir Zulfikar
15. Hanmanthu
16. Mahmood Hussain
17. M.Phillips
18. Mohd. Ahmed
19. S.Yadagiri
20. Y.Shiva Ramaiah
21. N.Yellaiah
22. P.Sree Ramulu
23. V.Narayana
24. D.Balram
25. D.Yettappa
26. K.Anjanelu
27. K.Ramlu
28. G.Yadagiri
29. P.Maisaiah
30. E.Rangaiah
31. C.Pentaiah
32. K.Yadaiah
33. Ramaswamy
34. T.Dayanand
35. D.Venkataiah
36. B.Hanumantha Rao
37. Smt. Bhiva Halders
38. D.Laxmaiah
39. Ramachander
40. Shiva Raj

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41. Venkaiah
42. P. Adavaiah
43. P. Yellaiah
44. A. Selvaraj
45. Satyanarayana
46. Mohd. Yousufuddin
47. C. Baby
48. C. Narasimha
49. L. Venkataswamy
50. B. Nageswara Rao
51. M. Ashok Kumar
52. G. Hanumanth Rao
53. B. Lakshpathi
54. M. A. Baduar
55. T. Chakrapani
56. N. Vignesh
57. B. Vijayasathy
58. V. Krishnam Raju
59. M. Chandran
60. G. Krishna
61. B. Nageswara Rao
62. M. Chandra Mohan
63. K. Srinivas
64. M. Srinivas
65. B. Narahari
66. K. Mallesam
67. Bhoomaiah
68. G. Bala Raj
69. SH. Madhukar
70. N. Babu Rao

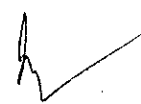
.. Applicants

AND

Union of India represented by

1. The Secretary,
Ministry of Defence,
New Delhi.
2. The Scientific Adviser to Minister
of Defence and Director General,
Defence Research & Development
Organisation (DRDO), DHQ PO,
New Delhi-1.
3. The Director,
Defence Metallurgical Research
Laboratory (DMRL),
Hyderabad-500258.

.. Respondents



nd

COUNSEL FOR THE APPLICANTS: Mr. T.Jayant

COUNSEL FOR THE RESPONDENTS: Mr. Naram Bhaskar Rao, Addl. CGSC

CORAM:

Hon'ble Shri B.N.Jayasimha, Vice Chairman

Hon'ble Shri J.Narasimha Murthy, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J.NARASIMHA MURTHY, MEMBER (JUDL.)

The petitioners filed this petition for a relief to direct the respondents herein to extend the benefit of pay scale of Rs.260-400 to the applicants herein with effect from 15.10.1984 with arrears of pay and seniority by implementing the Judgment of this Tribunal in O.A.No.363/88 dated 23.6.1989 which has become final in the light of the dismissal of the SLP against the O.A.No.363/88, by the Supreme Court of India to the applicants herein also inasmuch as the applicants herein also are entitled to the said benefit and they cannot be discriminated in this regard under the provisions of the Articles 14 and 16 of the Constitution of India. The facts of the case are briefly as follows:-

The applicants herein are working as Tradesmen 'C' in DMRL, Hyderabad, having been promoted from Tradesmen 'E'

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in the normal course in the pay scale of Rs.260-400. The 1st respondent herein by memo dated 15.10.1984 conveyed the Presidential sanction for upgradation of 11 trades mentioned therein from semi-skilled grade (Rs.210-290) to the skilled grade (Rs.260-400) in DRDO with effect from 15.10.1984, on the basis of the Government decision on the recommendations of the anomalies committee. Consequent on the implementation of the above order, the individuals in the said trades got the benefit of higher pay scales with arrears and seniority w.e.f. 15.10.1984 and the individuals in all other trades were deprived of the said benefit as a result of which they became juniors to their juniors. Therefore, representations were made by the individuals as well as by the Associations of employees in the matter for giving the said benefit to all the employees of all other trades. Thereupon the 2nd respondent constituted a Committee known as "Venkatesam Committee" to go into this matter vide letter dated 14.7.1986. Thereupon, the said committee submitted their report dated 30.4.1987 recommending that all the Tradesmen 'E' who were borne on the strength of DRDO as on 1.10.1984 irrespective of their job titles may be upgraded as Tradesman 'C' in the pay scale of Rs.260-400 w.e.f. 15.10.1984. As the said recommendation was not implemented for a long time, 74 Tradesmen 'C' of the DRDL, Hyderabad filed O.A.No.363/88 before the Central Administrative Tribunal, Hyderabad praying for a direction for upgrading their pay scale to Rs.260-400 w.e.f. 15.10.1984 with all consequential benefits of service and arrears. The Tribunal allowed the O.A., on 23.6.1989 following the Judgment of the Supreme Court in Bhagwan Sahai's case (1989(2) SCC 299).

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2. The review application No.37 of 1989 filed in the O.A.No.363/88 has been dismissed by the Tribunal by an order dated 6.11.1989 and the SLP No.12716/89 filed before the Supreme Court has also been dismissed at the admission stage on 15.11.1989. Thereafter, the Director General, R&D, New Delhi by a memo dated 7.12.1989 ordered to implement the Judgment of the Tribunal in O.A.No.363/88 to the applicants therein before March 1990.

3. While so, the applicants submitted representations on 26.7.1989 requesting for implementation of the said Judgment in O.A.No.363/88 dated 23.6.1989 to them also as they are also placed in similar situation. ~~XXXXXXXXXX~~ 2nd respondent by his letter dated 17.6.1988 ~~observed~~ as follows:-

"When a judicial court passes a judgment in favour of the workers, it should be applicable automatically to all workers similarly placed and the worker should not be forced to go to the court again and again on the similar issues."

Yet no orders have been received by the applicants in the matter till now. Hence, they filed the present application for the above said relief.

4. The respondent filed a counter with the following contentions:-

An expert classification committee for classification of Industrial and certain non-industrial categories of jobs functioning in various Departments under the Ministry ~~of~~

of Defence was appointed by the Government of India in 1974. The report submitted by the committee was examined by the Government and orders granting scale of pay and categorising different trades into five major categories were issued vide letter dated 16.10.1981. After the introduction of the pay scale under the above orders, certain anomalies were noticed and an anomalies committee was constituted in 1982 to look into the anomalies and it submitted its report in May 1984. The Government accepted the report and orders were issued vide letter dated 15.10.1984 granting higher pay scale and upgrading the 11 trades from semi-skilled (Tradesman 'E') (Rs.210-290) (Pre-revised) to skilled grade (Tradesman 'C') (Rs.260-400) with effect from 15.10.1984.

5. Aggrieved by these orders of upgradation, Shri Syed Sattar and 74 others (semi-skilled Tradesmen 'E' in pay scale of Rs.210-290) of DRDL, Hyderabad who were holding the posts of Tradesmen 'E' on 15.10.1984 but later promoted in their own turn to skilled grade (Tradesmen 'C' in pay scale of Rs.260-400) filed an application O.A.No.363/88 on 15.6.1988 before the Central Admve. Tribunal, Hyderabad Bench praying that they may be placed in higher pay scale of Rs.260-400 by granting upgradation with retrospective effect from 15.10.1984. The Tribunal allowed the application extending the benefit of pay scale of skilled grade (Rs.260-400) with effect from 15.10.84 relying upon a decision of the Hon'ble Supreme Court in Shri Bhagwan Sahai's case (1989(2) SCC 299). In Bhagwan Sahai's case, the petitioner therein belonged to one of the 11 trades upgraded on the basis of the recommendations of the anomalies

committee with effect from 15.10.1984. The Hon'ble Supreme Court held that these employees also should have rightly been placed in the higher scale w.e.f. 16.10.1981. The instant case relates to the trades which were not recommended the higher pay scale by the anomalies committee. In Bhagwan Sahi's case, the employees were recommended higher pay scale by the anomalies committee but the Government implemented the decision from 15.10.1984 instead of 16.10.1981. The Supreme Court judgment has the effect of changing only the date of implementation of the revised scale, and not revising the scale as such, whereas in the case of Syed Sattar Vs. Government of India (O.A.No.363/88) the pay scale itself has been upgraded. Even though the SLP filed before the Supreme Court has been dismissed in the Admission stage itself, a review petition has been filed before the Supreme Court, in view of the various implications of the judgment. Hence, the application may not be decided till the decision of the Supreme Court in the review petition is known. Applicants 1 to 26 are working as Tradesmen 'C' (Skilled) in different grades in DRDL, Hyderabad and they were promoted in the normal course to the grade of Tradesmen 'C' (Skilled) in the pay scale of Rs.260-400. The anomalies committee recommended upgradation of 11 trades from semi-skilled to skilled w.e.f. 16.10.1981 but the Government issued orders implementing the same w.e.f. 15.10.1984. The Venkatesan Committee was an internal body set up by DRDO to look into various problems relating to industrial employees but its recommendations were not agreed to by the Government. If the decision of the Tribunal in O.A.No.363/88 is implemented, it will amount to abolition of the semi-skilled trade in DRDO and wholesale upgradation of all semi-skilled ~~trades~~ posts into skilled posts. This will not only go against the recommendations of

the impartial expert agencies like Pay Commission and Expert Classification Committee, but also may cause various repercussions in the functional arrangement of DRDO as well as other defence organisation. Hence the issue requires reexamination once again and ~~gr~~ the relief prayed by the applicants herein is liable to be rejected. The respondents state that the O.A. is highly belated so much so that the applicants never invoked the jurisdiction of the Tribunal, as was done by the applicants in O.A.No.363/88. Obviously they were not aggrieved by them. Hence, on this ground itself the O.A. is liable to be dismissed.

6. Shri T.Jayant, learned counsel for the applicants and Shri Naram Bhaskar Rao, learned Additional Standing Counsel for the Central Government/Respondents, argued the matter.

7. In this case, one thing is clear. As per the Presidential sanction for upgradation of 11 trades mentioned therein, semi-skilled grade in the pay scale of Rs.210-290 was upgraded to the skilled grade in the pay scale of Rs.260-400 with effect from 15.10.1984. The Presidential sanction was only with regard to 11 trades. There are still so many other trades which were similarly placed and the employees made representations to the concerned Departments to upgrade their scale also contending that they became juniors to their juniors by upgradation of their trades. Individuals as well as Associations made representations to sanction the said benefits to all ~~employees~~ employees in other trades. The Government appointed 'Venkatesam Committee' to go into the matter and the Venkatesam Committee after going through all the matters submitted a report on 30.4.1987 recommending that all Tradesmen

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'E' (semi-skilled) who were borne on the strength of DRDO as on 1.10.1984 irrespective of their job title may be upgraded as Tradesmen 'C' (Skilled) in the pay scale of Rs.260-400 with effect from 15.10.1984. As the above recommendations were not implemented to the applicants who are similarly placed, the staff-side leader of JCM-III and individuals made representations to implement those recommendations. When the Government has not implemented, some of the workers filed O.A.No.363/88 before this Tribunal. The Tribunal in its Judgment dated 23.6.1989 following the Judgment of the Supreme Court in Bhagwan Sahai's case (1989 (2) SCC 299), allowed the O.A. ^{by the Department} The review petition filed/ before the Tribunal in O.A.No.363/88 was also dismissed. SLP filed before the Supreme Court against O.A.No.363/88 was also dismissed. Thereafter, the Director General, R&D, New Delhi ordered the Director, DRDL, Hyderabad to implement the Judgment of this Tribunal to the applicants therein before March 1990. In such circumstances, the applicants filed this application for similar relief as in O.A.No.363/88.

8. The point raised by the respondents in this case is, that all the Tradesmen 'E' (semi-skilled) ^{posts} in pay scale Rs.210-290 ~~posts~~ were upgraded to Tradesmen 'C' (skilled) posts in pay scale Rs.260-400 as per recommendations of the Expert Classification Committee. So, the semi-skilled category will vanish. This matter is pending before the Supreme Court, for review. Until the Supreme Court disposes of the matter in review, if the Tribunal allow this application basing on the decision of the Tribunal in O.A.No.363/88, this will not only go against the recommendations of impartial expert agencies like pay commission and expert classification committee,

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but also may cause various repercussions in the functional arrangements of DRDO as well as other Defence organisation. The respondents, therefore, stated to re-examine the issue once again and not to grant the relief just on the analogy of O.A.No.363/88.

9. The respondents also raised a point that the application is barred by limitation. The applicants also agitated for seniority over the persons who are skilled as on 15.10.1984.

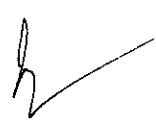
10. On the point of limitation, we find that this case is covered by a decision of the Madras Bench of this Tribunal in Ordnance Clothing Factory Workers' Union Vs. Secretary, Ministry of Defence and others (ATR 1990(1) CAT 22). In that case, it was argued that the applicants had been inactive after the order dated 19.7.1983 and approached the Tribunal only after some of their comrades agitated the matter and got relief. It was submitted that the fact of making a representation would not have an effect of extending the period of limitation and the law is not meant to come to the help of those who have been indifferent in respect of their rights. The Tribunal held that in that particular case the starting of limitation is the representation made by the applicants. It was also noted that the applicants became aware of their rights only in the year 1987 and immediately thereafter, filed the application in 1988

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and it cannot be said that there is any latches on their part. In this case, the applicants came to know of their rights only after the Judgment in O.A.No.363/88 on 23.6.1989. It is after that, that they approached the Tribunal with this O.A. Applying the ratio of the Ordnance Clothing Factory Workers' Union case, it cannot be said that the application is barred by limitation insofar as their plea for extending the benefit of the pay scale of Rs.260-400 is concerned. We may, however, observe that inasmuch as the applicants had not agitated the matter earlier, they would not be entitled for arrears and the same would be limited from the date they filed this application.

11. The next point is that the objection raised by the respondents that by extending the benefits given to the 11 trades to other trades also, the feeder category will vanish and they asked the Tribunal to reconsider the matter in this application. The Government had issued suo-moto orders insofar as 11 trades are concerned. Tradesmen 'E' (Semi-skilled) were upgraded as Tradesmen 'C' (Skilled) i.e., the pay scale was upgraded from Rs.210-390 to the scale of Rs.260-400. This stand was taken by the Government in extending the benefits to the 11 trades only. When the 11 trades were given the benefit, generally other trade officials also will agitate. What the Government was thought of regarding the feeder category while giving the benefit to the 11 trades ie. upgradation from Tradesmen 'E' (semi-skilled) to Tradesmen 'C' (Skilled). The Government did not think about the feeder category when that benefit was given to only 11 trades. Reacting on the agitation of the other trade officials, Venkatesan Committee was appointed and the Committee

recommended that all the tradesmen 'E' (semi-skilled) who were borne on the strength of DRDO as on 1.10.1984 irrespective of their job titles, may be upgraded as Tradesmen 'C' (skilled) in the pay scale of Rs.260-400 with effect from 15.10.1984. Ofcourse, the Government did not implement the same. Other Tradesmen approached the Court by filing O.A. No.363/88, and the Court decided in their favour and the benefit was extended to the other tradesmen who approached the Court by filing O.A.No.363/88. The applicants herein also belong to those trades who were not approached the Court earlier. After coming to know that O.A.No.363/88 was decided in favour of the workers, they approached this Tribunal for the same relief, as prayed for in the O.A. No.363/88. When the competent court given a direction previously, the applicants also are entitled to get the same benefit. They are only entitled to get their benefits as per the directions given by the Tribunal. The Committee also recommended that the other trades are entitled to the benefits and the Tribunal also held that the applicants before them are entitled to get the benefits. In such circumstances, the Government cannot stop the benefits that accrue to the applicants who are part and parcel of the said trades. By not extending the same benefits to the applicants herein, it amounts to discrimination. The applicants herein are entitled to the same benefits that the petitioners in O.A.No.363/88 got pursuant to the Judgment of the Tribunal and the question of feeder category, the Court

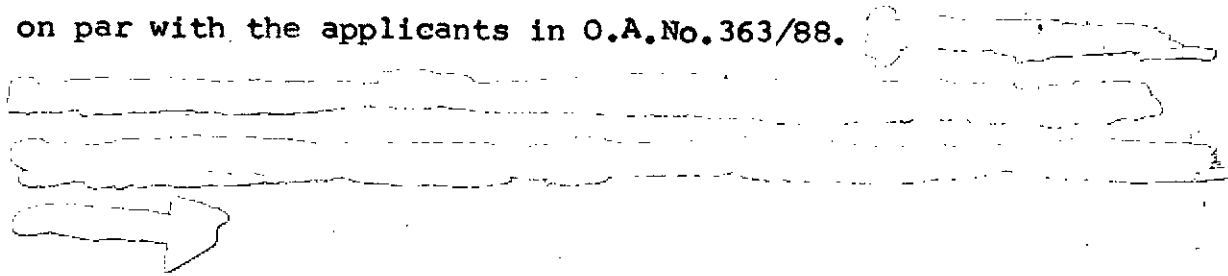


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cannot decide and that is the outlook of the Government to create feeder category.

12. Insofar as the seniority is concerned, the applicants claim that they are seniors to the applicants already upgraded to the skilled category (Tradesmen 'C') while they were in Tradesmen 'E' (semi-skilled) grade. By virtue of the decision of the Government, 11 trades were upgraded to the higher scale and the persons who got the benefits in the upgradation are originally juniors to the applicants when they were working in Tradesmen 'E' (semi-skilled) category. So, the applicants herein became juniors to the juniors and they are also claiming seniority in this application.

13. In this case, it is peculiar that upgradation of 11 trades was done not as per the seniority but the upgradation was done as per the policy of the Government. As per the policy of the Government, 11 trades were upgraded and those officials were considered to be skilled Tradesmen 'C' all these years. As per the Judgment in O.A.No.363/88, the applicants herein are also entitled to get the seniority on par with the applicants in O.A.No.363/88.



14. We accordingly hold that the applicants are entitled to get all the benefits on par with the applicants in O.A. No.363/88.



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15. The application is accordingly allowed. There is no order as to costs.

B.N. Jayasimha

(B.N. JAYASIMHA)
Vice Chairman

J. Narasimha Murthy

(J. NARASIMHA MURTHY)
Member (Judl.)

Dated: 17/12/6-91

J. Narasimha Murthy
19/12/91
Deputy Registrar (J)

1. The Secretary, Union of India,
Ministry of Defence,
New Delhi.
2. The Scientific Adviser to the Minister of Defence
and Director General, Defence Research &
Development Organisation (DRDO) DHQ P.O. New Delhi-1
3. The Director, Defence Metallurgical Research Laboratory (DRDL)
Hyderabad 258.
4. One copy to Mr. T. Jayant, Advocate, CAT. Hyd.
5. One copy to Mr. N. Bhaskar Rao, Addl. CGSC, CAT. Hyd.
6. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J) CAT. Hyd.
7. One spare copy.

vsn

19/12/91