

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No. 575 of 1996

Between:-

N. Prabhakar, S/o. Ramulu,
aged 38 years, Grinder (H.S.Gr.II),
O/o. General Manager, OFP, Eddumailaram,
Medak District and 40 others.

... Applicants.

A N D

1. The Government of India,
rep. by Secretary, Ministry of Defence,
Central Secretariat, New Delhi - 110 001.

2. The Ordnance Factory ~~EXXIM~~ Board,
rep. by Director General of Ordnance Factories,
10-A, Auckland Road, Calcutta.

3. The General Manager,
Ordnance Factory Project,
Ministry of Defence, Govt. of India,
Eddumailaram, Medak District. ... Respondents.

Rajender

REPLY AFFIDAVIT OF THE 1ST APPLICANT

D. Shankar, Chandrappa 32
I, ~~Mr. Shankar~~, S/o. ~~Chandrappa~~, aged about 32

years, Grinder (H.S.Gr.II) O/o. the General Manager,
Ordnance Factory Project, Eddumailaram, Medak District,
do hereby solemnly affirm and sincerely state on oath as follows

1. I am the ^{9/1} 1st applicant herein and am well acquainted
with the facts of the case. I am authorised to depose on
behalf of other applicants also. I have read the Counter
Affidavit under reply and I deny the material averments
contained therein except to the extent expressly admitted
hereunder.

2. In reply to para , I state that our claim in
the O.A. is based on the fact that for a similar job
content and with same educational and technical qualifi-
cations employees working in other Departments/organisations

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Corrns:

Attestor

H. S. Prabhakar
DEPONENT

of the Government of India are drawing higher pay and allowances, whereas we are put in a lower scale. In otherwords, our claim is based on the fundamental principle of equal pay for equal work. I state that at the time of our employment. We were not aware of dissimilarity. Furthermore, at the time of employment we could not afford to raise such questions. It would be an our peril only. However, merely because we had not objected at that time does not preclude us from raising now. I am advised to state that there is no estoppel against Fundamental rights.

3. In reply to para 6, I state that the matter is instituted now on account of facts coming to our knowledge where different department of Government of India are following different procedures in fixing scales.

4. In reply to para 8, I state that we are seeking to question the very basis of fixing us in a lower scale and the method adopted by the respondents. I state that the administrative or statutory action and provisions are subject to test of arbitrariness on the touch stone of equality enshrined in Art. 14 and 16 of Constitution of India. Any and every action of Government is subject to judicial scrutiny where it is alleged as arbitrary and discriminatory. I state that we are seeking to question the arbitrary fixing of scales between various departments for the very same nature of work done by an individual. An individuals pay and allowances should not be dependent upon the fortutious circumstances of

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Corrns:

Attestor


DEPONENT

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the Departments he is working, but should be uniform. The Government can not follow selective discrimination. The question raised by us is the classification of individuals possessing same skill and expertise and doing same work but being paid different wages only on the basis of their recruitment to a Department is irrational and has no nexus to the object sought to be achieved and hence discriminatory.

5. In reply to para 9 and 10, I state that there is no estoppel against fundamental rights. Seeking equal pay for equal work is a fundamental right. I therefore submit that the statutory provision also must stand the scrutiny of equality before law and equal treatment of laws. Two Departments can not treat equals as unequals in the matter of pay and allowances. In the manner in which we have contended, it is necessary to go into the scales applied by Department of Railways, MES etc. It is further submitted that our contention is not so much against a provision for recruitment to semi-skilled but our recruitment as semi-skilled with lesser pay is arbitrary. The statement of respondents in para (10) is no answer to our contention about method of recruitment followed in other Factories. The relevant information is required to be placed before this Hon'ble Tribunal for proper adjudication of the matter.

6. In reply to para 11, I state that respondents can not discriminate its employees on the basis of date

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Corrns:


Attestor


DEPONENT

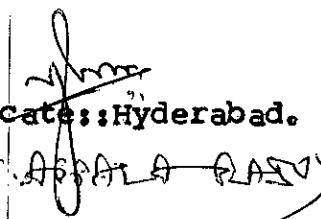
of recruitment. This is arbitrary and discriminatory. The recommendations of expert body must be applied to all employees.

7. I respectfully submit that there is no merit in the submissions of respondents. I state that the applicants have clearly made out how they are discriminated against by respondents in the matter of payment of pay and allowances and designation as comparable to persons rendering some duties and responsibilities working in other Departments/Organisations of Government of India. In the circumstances the anomaly is requested to be rectified and equality to be brought about among same class of people. I therefore pray to this Hon'ble Tribunal to allow the O.A. as prayed for.

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Corrections:

Sworn and signed before me
on 31 day of July, 1998
at Hyderabad.


DEPONENT


Advocate, Hyderabad.

(C. APPALA RAO)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD.

O.A.No. 575 of 1996

Rejoined dated by the
REPLY AFFIDAVIT Applicans

Received
3-8-98
for Mr. V. Raghavendra



Filed on :- -07-1998.

Filed by :- M/s. P.Naveen Rao,
P.Kishore Rao &
K.Phani Raju,
Advocates
COUNSEL FOR THE APPLICANTS.

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