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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

ORIGINAL APPLICATION No. 442/97.

Date of Decision : 20-12-1997.

1. E.Satyanarayana
2. B.Ved Bhushan
3. Ch.Panduranga Chary
4. A.Raj Kumar
5. P.Ashok Vardhan
6. Md. Ghousuddin
7. T.Rajeshwar Rao
8. N.Anjaiah
9. P.R.Ravinder

.. Applicants.

vs

1. The Secretary to Government,
Min. of Defence, Research and
Development Organisation,
Govt. of India, New Delhi..
2. The Director, D.R.D.L/R.C.I.,
Vignan Kancha, Hyderabad-69.
3. The Director of Management
Services, R.C.I., Vignan Kancha,
Hyderabad-69.
4. The Sr.Admn. Officer,
R.C.I., Vignan Kancha,
Hyderabad-69.

.. Respondents.

COUNSEL FOR THE APPLICANTS : Mr.K.K.CHAKRAVARTHY

COUNSEL FOR THE RESPONDENTS : Mr.K.RAMULU, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON. Mr.R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.K.K.Chakravarthy, learned counsel for the applicants and Miss.Shyama for Mr.K.Ramulu, learned counsel for the respondents.

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2. There are 9 applicants in this OA. They joined the respondent organisation under R-2 and R-3 in February 1991 by regular selection as Tradesmen 'E'. The offer of appointment for the post of Tradesmen are enclosed to the application. They were appointed in the scale of pay of Rs.800-1150/- . The other conditions of service are indicated in the appointment orders.

3. Presently, they are working as Technicians 'A' (Tradesmen 'C') in the scale of pay of Rs.950-1500/- from April 1996. They submit that the scale of pay of Rs.950-1500/- existed prior to 1989. Hence paying them in the scale of pay of Rs.800-1150/- on their appointment as Tradesmen 'E' from February, 1991 is erroneous. They should be paid in the scale of pay of Rs.950-1500/- right from February, 1991 when they joined as Tradesmen 'E' instead of paying them in the scale of pay of Rs.800-1150/- from February, 1991 till they were promoted as Technician 'A' in April, 1996. They had submitted representations in this connection; but those representations were submitted only in early 1997. One such representation dated 5-2-97 is at Annexure (A-12 Page-25) to the OA. The applicants are not satisfied with the action taken by the respondents in disposing off their representations regarding the fixation of scales of pay as Tradesmen 'E'. Hence this OA is filed.

4. The relief sought for in this OA is for a declaration that the action of the respondents No.1 to 4 in not granting the scale of Rs.950-1500/- to the petitioners from the date of their appointment from February, 1991 on par with the other employees who are in the same organisation is illegal, arbitrary and violative of Article 14, 16 and 19 of the Constitution of India and for a consequential direction to the respondents No.2 to 4 to

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implement the same with immediate effect retrospectively from February, 1991 by granting the arrears.

5. The main contention of the applicants in this OA are that since the pay scale of Rs.950-1500/- existed prior to 1989 for the post of Tradesmen 'E', the respondents erroneously fixed their pay in the scale of Rs.800-1150/- when they joined as Tradesmen 'E' in February, 1991. Hence this error has to be corrected now by correctly fixing their pay in the scale of Rs.950-1500/- right from February, 1991 and paying them the arrears arising out of that fixation. Since they have joined service in 1991 as fresh entrants they did not raise the question of pay scale at that time as they were not aware of the proper pay scale. Thereafter, they came to know that in other organisations of the Defence Department, similarly qualified employees are in the pay scale of Rs.950-1500/-. As the applicants are also qualified in ITI with one year apprenticeship and performing the same duties, they should also be given the same scale of pay, thereby rectifying the anomaly. The principle of 'Equal pay for equal work' as held by the Supreme Court in Civil Writ Petition No.12259-66 of 1984 (Bhagawan Sahai Carpenter and Others Vs. UOI) decided on 15-03-89 holds good in their case. They also rely on the judgement of the Full Bench of this Tribunal in OA.No.111 of 1991 decided on 18-06-93 (G.Narayana & 16 Others Vs. UOI & 2 Others on the file of the Bangalore Bench of this Tribunal). The Hyderabad Bench of this Tribunal in OA.No.363 of 1988 decided on 23-06-89 had favourably considered the case for fixation of scale of pay as prayed for in this OA. However, the Bangalore Bench of this Tribunal did not agree with the view taken by the Hyderabad Bench in OA.363 of 1988 which resulted in the

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constitution of the Full Bench which decided the issue on 18-06-93 agreeing with the decision of the Hyderabad Bench. Hence, their case is fully justified for higher fixation as prayed for in this OA.

6. The respondents have filed a reply. The respondents contend that the OA was filed 6 years after they joined the service. Hence the OA is filed belatedly. They explain that the upgraded scale of pay was granted to the erstwhile semi-skilled staff on the basis of the recommendations of the Anomalies committee to 11 categories and later to some other categories due to the orders given by the Tribunals/Courts. The scale of pay of Rs.260-400/- as per the pay scale of Third Pay Commission was granted at that time on 15-10-84 as per the Recruitment Rules in force at that time. However, by notification dated 7-8-81, SRO 221 (Annexure R-1 to the reply) was introduced. By this SRO the Tradewise seniority was done away with and only gradewise seniority was followed. As per this SRO, the scale of pay of Tradesmen 'E' is only Rs.210-290/- which is equivalent to Rs.800-1150/- in the 4th Pay Commission scales of pay. The fresh induction in the Trades in the semi-skilled category are governed by the letter of Ministry of Defence dated 15-10-84. As the Tradewise distinction was done away with and only gradewise structure with common seniority in each grade was introduced in SRO 221 of 81, the Tradesmen could not have been differentiated by the Trades. Hence the question of comparing with the other Tradesmen does not arise. Even the Tradesmen 'E' were given the upgraded scale as per the seniority roll of 15-10-84 as a one time measure and hence that upgraded scale cannot be demanded by the applicants herein who joined in February, 1991. The respondents also rely on the

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judgement of the Principal Bench of this Tribunal in OA. No.501 of 95 decided on 1-1-97 (Shri Mahendra Pal and 22 Others Vs. UOI and 2 Others - Annexure R-11 to the reply). In that OA, the Principal Bench had held that only those Tradesmen 'E' who were in position on 15-10-84 were given in-situ promotion as a one time upgradation as Tradesmen 'C' and others who were not in position as Tradesmen 'E' on 15-10-84 cannot seek upgradation. The above view was taken due to the recruitment rules as per SRO 221 of 81. They also submit that the OA has to be dismissed on account of limitation.

7. Though the respondents in this OA submit that the law of limitation will apply in this case, they have not opposed the MA.438 of 97 filed for condonation of delay of 1850 days in this OA before admission. Hence it will not be in order to dismiss this OA on that count.

8. The Full Bench judgement in OA.No.111 of 91 decided on 18-06-93, enclosed as Annexure R-2 to the reply, gives the brief relevant facts. Those relevant facts also should be taken note of in this OA. As both sides are aware of this order, it is not necessary to bring out the details in this OA also. However, it is to be stated that in the Full Bench Judgement, the grant of scale of pay of Rs.260-400/- to the semi-skilled categories under DRDO was considered. In view of the fact that Anomalies Committee recommended upgradation of 11 categories of the semi-skilled Trades, the upgradation of other semi-skilled categories were also directed as a matter of equality. In order to ensure that such demand for upgradation does not arise in future, the Recruitment Rule was amended by SRO 221 of 81 dated 7-8-81. By this amendment, the Tradewise distinction was done away with and replaced by a gradewise

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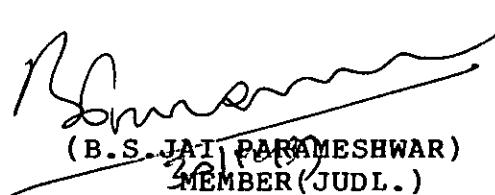
structure with a common seniority in each trade irrespective of the Trade. Further all Tradesmen 'E' in different Trades who were in the feeder category for promotion to Tradesmen 'C' and who were in a position as on 15-10-84 were given the benefit of one time upgradation to Tradesmen 'C' in the pay scale of Rs.260-400/- with notional seniority and pay fixation with effect from that date. Thus the Defence Ministry had fulfilled the directions given by the Full Bench of this Tribunal. When the applicants joined service in 1991, they were governed by the recruitment rules then in force. They were classified gradewise and not Tradewise. Hence the question of comparing their work with others even if they are in the same trade does not arise. The judgement of the Supreme Court in Civil Writ Petition No.12259-66 of 84 cannot be quoted by the applicants to grant them the relief in view of the Recruitment Rule in force when they joined in February, 1991 as Tradesmen 'E'.

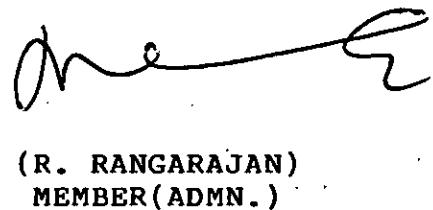
9. The applicants joined with the full knowledge that their pay scale is only Rs.800-1150/- as seen from the letter of appointment. Merely saying that they were not aware of the higher scale at that time, as they were new to the service, of those performing similar trade in other units of the Defence is not a reason to give them the higher scale. They should have ascertained the full position before accepting the order of appointment. As seen from the OA, they started representing their case only in February, 1997, about 6 years after they joined. It cannot be said that they came to know of this position only in 1997 and not earlier. Hence the latches on their part should also be taken note of.

10. In view of what is stated above, we find that the applicants had not made out a justifiable case for grant of

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the relief as prayed for. Hence the OA has to be dismissed as having no merits. Accordingly it is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 30th Dec. 1997.

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DA.442/97

Copy to:-

1. The Secretary to Government, Ministry of Defence, Research and Development Organisation, New Delhi.
2. The Director, D.R.D.L./R.C.I., Vignan Kancha, Hyderabad.
3. The Director of Management Services, R.C.I., Vignan Kancha, Hyderabad.
4. The Senior Admin. Officer, R.C.I., Vignan Kancha, Hyderabad.
5. One copy to Mr. K.K.Chakravarthy, Advocate, CAT., Hyd.
6. One copy to Mr. K.Ramulu, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

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12/11/98

Court

TYPED BY
COMPARED BY

CHECKED
APPROVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE R. Rangarajan
VICE-CHAIRMAN M(A)

AND

THE HON'BLE MR. H. RAJENDRA PRASAD M(A)
B. S. Jai Poranamur M(J)

DATED: 30 - 12 - 1997

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

in
O.A. No. 442/97

T.A. No.

(W.P.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

p.v.m.

