

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Seal
22/11/17

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 66 /2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) Mr. N. Gogoi & Sons

Respondent(s) U.O.T. Tomy

Advocate for Applicant(s) B.K. Sharma, S. Sarma, U.K. Nayak
Mir. U. D. M.

Advocate for Respondent(s) C. A. D.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
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This is application in form No. 50/- deposited

C. P. f. No. 50/- deposited

with 74550918

Dated 7.2.2002

Mr. Registrar

After hearing Mr. S. Sarma, learned
counsel for the applicant and also Mr. B.C.
Pathak, learned Addl. C.G.S.C. for the
Respondents, the application is admitted.
Three weeks time is allowed to the Respondents
to file written statement.

List on 10.4.2002 for order.

Steps taken, Notice
Preferred and sent
to D/s for enjoining the
Respondent No 1 to 5
by Regd. A.D.

Member

D/No 9116915

On the prayer of Mr. B.C. Pathak, learned

Dtd 28/3/02

Addl. C.G.S.C. the case is adjourned to
10.5.02 for filing of written statement.

No. written statement
has been filed

Vice-Chairman

Im

11.6.02

10.5.2002

On the request made by Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents four weeks time is granted to the respondents to file written statement.

List the case for order on
12.6.2002.

Member

bb

12.6.02

No written statement so far filed. Mr.S. arna learned counsel for the applicant submits that this matter is covered by the Judgment in O.A.Nos. 158 of 94 and 202 of 2000 which was passed by this Tribunal. List on 26.7.02 for hearing. In the meantime the respondents may file written statement.

Member

26.7.02

Mr.U.K.Nair learned counsel prays for adjournment on behalf of Mr.B.K.Sharma learned counsel for the applicant. Mr.A Deb Roy is Sri Gowda C.M. has no objection. Prayer is allowed. List on 9.8.02 for hearing.

Member

lm

XXXXXX

XXXXXX

XXXXXX

9.8.2002

Mr.B.C.Pathak, learned Addl.C.G.S.C. prays for time on the ground that he missed notice this item in the list.

Prayer accepted. List the case again for hearing on 6.9.2002. In the meantime the respondents may file written statement, if any, within two weeks from today.

Member

bb

6th Passover to 9th 2002

Mr A Lhasa

O.A.66/2002

Notes of the Registry Date Order of the Tribunal

9.9.2002

Heard counsel for the parties.

Judgment delivered in Open Court, kept
in separate sheets.

The application is allowed in
terms of the order. No order as to cost

Judgment add 9/9/02
Communicated to the
Applicant & the parties
Counsel

DR

Vice-Chairman

bb

Notes of the Registry | Date | Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXX. No. 66 of 2002 . . . xx

DATE OF DECISION 9.9.2002

Shri Niren Goswami & Another.

APPLICANT(S)

Mr. B.K. Sharma, S. Sarma, U.K. Nair & Ms. U. Das. ADVOCATE FOR THE APPLICANT(S)

VERSUS

Union of India & Others.

RESPONDENT(S)

Mr. B.C. Pathak, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble **vice-Chairman.**

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.66 of 2002.

Date of Order : This the 9th Day of September, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

1. Shri Niren Goswami
S/o Late P.K.Goswami
Presently working as Tailor
in AMC Basistha Hospital
Basistha.
2. Md.Muslim
S/o Late Md.Idris
Presently working as Tailor
in AMC Basistha Hospital
Basistha.

. Applicants.

By Advocates Mr.B.K.Sharma, S.Sarma, U.K.Nair &
Ms.U.Das.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence.
New Delhi.
2. The Commandant
Head Quarter 101 area (MED)
C/o 99 APO.
3. The Commander
Head quarters
Eastern Command (MED)
Fort William
Kolkata-21.
4. The DTE, General of Medical Services (Army)
DGMS-3 (B)
Army Head Quarters, L-Block
New Delhi.
5. The Commandant
151 Base Hospital
C/o 99 APO.

. Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.) :

entitlement of
The / the benefit of pay scale of Skilled cadre to
these two applicants is the core issue raised in this applica-
tion.

1. The applicant No.1 joined the services under the respondent as Tailor (Civil) and he was posted at Base Hospital, Basistha w.e.f. 14.1.1989. His pay was fixed in the scale of Rs.800-1150/- . The applicant No.2 Md.Muslim also joined as Tailor (Civil),on 12.1.1981 in the aforesaid Hospital at Basistha and his pay was fixed at Rs.210-290/-. The two applicants claimed that as per the recommendation of the 5th Central Pay Commission they ought to have been given the pay scale of Skilled cadre i.e. Rs.3050-4590/- w.e.f. November, 1984, so much so that the Tailors were declared as Skilled cadre. The applicants also contended that the persons similarly situated were already given the benefit of the pay scale of Skilled category Tailor vide judgment and order dated 19.10.1995 passed in O.A. 158 of 1994. Similar order was passed also in O.A.202 of 2000 dated 17.5.2001 by this Tribunal . The aforementioned two decisions of the Tribunal on parity in employment visavis upgradation is based on the judgment rendered by the Hon'ble Supreme Court in Bhagwan Sahai Carpenter and Others - Vs - Union of India and Another reported in (1989) 2 Supreme Court Cases 299. The relevant part of the observations made by the Supreme Court in the aforesaid judgment is reproduced below :

"11. Considering all the facts and circumstances of the case we are unable to accept the contentions advances on behalf of the Union of India on the ground that the employees of the different trades in the skilled grade cannot be treated different i.e. by allowing higher scale of pay to employees of some of the trades from an earlier date and giving the same benefit to the members of other trades in the skilled grade from a later date. This will per se be discriminatory and it will be contrary to the equality clause envisaged in Articles 14 and 16 of the Constitution as well as the fundamental right of equal pay for equal work. The petitioners are entitled to get the benefit of the skilled grade of Rs.260-400 from October 16, 1981 instead of October 15, 1984 as has been given to the employees of other trades in the skilled grade."

2. The respondents, though opportunity granted, did not file written statement. Mr.B.C.Pathak, learned Addl.C.G.S.C. appearing for the respondents prayed further time to enable it to file written statement. numerous ^{on} occasions time was granted and finally time was granted on 9.8.2002 and hearing was fixed. Mr.Pathak also submitted that the applications of these two applicants were already forwarded to the Head Quarter for considering their case for providing them the pay scale as prayed for and those applications are pending for consideration before the higher authority. The issue is set at rest by judicial decisions. The Apex Court has already rendered its judgment in Bhagwan Sahai Carpenter (Supra)'s case. The said decision was also followed by the CAT Guwahati Bench. These two applicants are also similarly situated like those who were the applicants in O.A.158/1994 and in O.A.202/2000. As a matter of fact, pursuant to the Tribunal's order, presidential sanction was issued on 15.10.1996 granting the skilled grade of Rs.260-400 from 16.10.81 revised to Rs.950-1500/- from 1.1.86 to the applicants in O.A.158/94. There is no valid reason for depriving them from the said benefits as the applicants were similarly situated. The applicants are also squarely covered and they are also entitled for the similar benefits. We do not find any justification on the part of the respondents for not resolving the situation though these two applicants are agitating the matter before the authority since long. ^{Also} heard learned counsel for the applicants.

Mr.S.Sarma / For the reasons stated above, the application is allowed and the respondents are directed to act accordingly and pass appropriate order as per law and directions issued in terms of in the aforementioned O.A.154/94 followed by O.A.202/2000

within a period of three months from the date of receipt
of the order.

There shall, however, be no order as to costs.


(D.N.CHOWDHURY)
VICE CHAIRMAN

bb

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : D.A. No. 66 of 2002

BETWEEN

Shri Niren Goswami & Another Applicants.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : Alesha Das Regn. No. :

File : WS7\NIREN Date :

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Fixed by
the applicant through
Alsha Das
Advocate
28/2/2002

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

D.A. No. 66 of 2002

BETWEEN

1. Shri Niren Goswami
S/o Late P.K. Goswami
presently working as Tailor
in AMC Basistha Hospital, Basistha.
2. Md. Muslim
S/o Late Md. Idris
presently working as Tailor
in AMC Basistha Hospital, Basistha.

..... Applicants.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Defence
New Delhi.
2. The Commandant,
Head Quarter 101 area (MED)
C/o 99 APO.
3. The Commander,
Head Quarters
Eastern Command (MED)
Fort William
Kolkata-21.
4. The DTE, General of Medical Services (Army),
DGMS-3 (B)
Army Head Quarters, L-Block,
New Delhi.
5. The Commandant,
151 Base Hospital
C/o 99 APO.

..... Respondents.

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PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is not directed against any particular order but has been made against the action of the Respondents in not allowing them to draw the salary under Skilled category as has been allowed in case of other similarly situated persons working under the Respondents.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant No.1 joined the services under the Respondents as Tailor (Civil) and he was posted at Base Hospital, Basistha w.e.f. 14.1.89. His pay was fixed in the scale of Rs.800/- - 1150/-. Similarly, on 12.1.81 the applicant No.2 also joined as Tailor (Civil), in the said Hospital at Basistha and his pay was fixed at Rs.210-290/-.

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4.3. That the applicants beg to state that the cadre of Tailor should have been declared as Skilled cadre and their pay should have been higher what they are drawing now. Both of them are presently drawing pay in the scale of Rs.2650-4600/- after the commencement of 5th Central Pay Commission Recommendations. However, Respondents ought to have allowed them the pay scale applicable to Skilled Tailor i.e. Rs.3050-4598/- w.e.f. Nov. 1984.

4.4. That the applicants beg to state that some of the similarly situated persons working under the Commandant, Assam Regimental Centre, Shillong-7 preferred OA No.158/94 before this Hon'ble Tribunal praying for a declaration for treating the cadre of Tailor as Skilled cadre w.e.f. 9.11.84 taking into consideration Govt. letter dated 15.10.84. In the said judgement there is also a categorical direction for fixation of pay and arrears to the applicants thereto subject to such upgradation of the Tailor grade to Skilled grade within a stipulated time period of 2 months.

A copy of the aforesaid judgement and order dated 19.10.95 passed in OA No.158/94 is annexed herewith and marked as Annexure-1.

4.5. That the applicants beg to state that the Ministry of Defence issued a letter dated 15.10.84 by which it is stated that although industrial personal belongs to same category of job were placed in the Semi-Skilled Trade and further graded to Skilled trade, the trade of Tailor did not get any consideration as semi-Skilled or Skilled trade. However, the respondents at the same time issued a letter

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dated 28.1.86 as per the recommendation of Anomalies Committee by which 13 categories of workers were considered for promotions as Skilled/semi-Skilled. In the said list the trade of Tailor Old Grade and Tailor Mate were there at serial No.7 & 8. It means the category of Tailor falls under Skilled category. However the respondents due to reasons best known to them refused the said pay scale Skilled Tailor to the present applicants.

The applicants crave leave of the Hon'ble Tribunal for a direction to the respondents to produce the aforesaid orders dated 15.10.84 and 28.1.86 at the time of hearing of the case.

4.6. That the applicants beg to state that on the basis of the aforesaid judgement and order dated 19.10.95, another Tailor (Civil) Md.Ashraf working under Assam Regimental Centre, Shillong, preferred OA No.202/00 praying for similar relief. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide its judgement and order dated 17.5.2001 directing the respondents thereto to refix his pay after declaring the Tailor cadre to be Skilled one, in the light of the earlier judgement and order dated 19.10.95 passed in OA No.158/94 passed by this Hon'ble Tribunal.

A copy of the said judgement and order dated 17.5.2001 passed in OA No.2002/2000 is annexed herewith and marked as Annexure-2.

4.7. That the applicants beg to state that both of them are similarly situated employees like the applicants of OA

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No.158/94 and 202/00 and hence the direction contained in the aforesaid judgements are also equally applicable to them. However, the respondents have not yet implemented the said directives mentioned in Annexure-1 and Annexure-2 in respect of them. It is noteworthy to mention here that the respondents have implemented the aforesaid judgement to the applicants of OA No.158/94 and 202/2000 but same has not been made applicable to the present applicants.

4.8. That the applicants ventilating their grievances made several representations to the respondents highlighting the facts that aforesaid judgement is also covers their cases but same is yet to be disposed of. On the other hand the directives of Hon'ble Tribunal in Annexure-1 and Annexure-2 judgement in case of those applicants and their pay has been revised w.e.f. 1984.

Copies of the representations filed by the applicants are annexed herewith and marked as Annexure-3 colly.

4.9. That the applicants visited the office of the respondents making oral prayer regarding refixation of their pay but the said respondents have placed their helplessness in absence of any order from this Hon'ble Tribunal. The applicants having no other alternative have come before this Hon'ble Tribunal seeking appropriate relief.

4.10. That the applicants beg to state that the action/inaction on the part of the respondents are per-se illegal, arbitrary and violative of Article 14 and 16 of the

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Constitution of India. The Law is well settled that when a judgement is pronounced by a competent Court of Law laying down a law, the said law is required to be made applicable to all the similarly situated employees without requiring them to approach the doors of the Court and Tribunal again and again.

4.11. That the applicants beg to state that as stated above the respondents have implemented the aforementioned order dated 19.10.95 passed in OA No.158/94 and to that effect the respondents have conveyed the Presidential sanction vide it's letter dated 15.10.96. It is pertinent to mention here that the respondents also made the arrear payment to the applicant thereto pursuant to the aforesaid order dated 15.10.96, however same has been restricted to the applicants of OA 158/94. In the said order there is a mention regarding review application proposed to be filed at that point of time before the Hon'ble Supreme Court. To that context the applicants state that as per informations gathered from reliable source that the said petition before Hon'ble Supreme Court has been rejected.

The applicants crave leave of this Hon'ble Tribunal for a direction towards the respondents for production of the outcome of the said Review Application filed before the Supreme Court at the time of hearing of this case.

A copy of the aforesaid order dated 15.10.96 is annexed herewith and marked as Annexure-4.

4.12. That the applicants beg to state the action on the part of the respondents in not granting the due pay to them is contrary to the settled position of law and hence appropriate direction need be issued to the respondents to take necessary steps for obtaining Presidential sanction and concurrence from concerned Ministry for a declaration as Skilled Workers and to refix their pay w.e.f. 9.11.84 and to pay arrear within a stipulated time period.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action /inaction on the part of the respondents in not granting equal pay for equal works to the present applicant is not sustainable in the eye of law and liable to be set aside and quashed.

5.2. For that the respondents ought not to have discriminate the present applicants in respect of pay and allowances. In the instant case there has been a clear cut violation of the settled principles of equal pay for equal work and as such appropriate direction need be issued to the respondents refixing the pay of the applicants retrospectively with arrears.

5.3. For that the applicants being Skilled workers are entitled to the benefit of higher pay as has been granted to the other similarly situated employees who are presently drawing higher pay. The respondents in not granting the higher pay to the present applicants have violated Article 14 & 16 of the Constitution of India and laws framed thereunder.

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5.4. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that he has exhausted all the remedies available to them and there is no alternative remedy available to them.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicants further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicants:-

8.1. To direct the respondents to fix the pay of the applicants treating them as Skilled worker under Skilled

grade with retrospective effect, along with arrears and interests @ 18% on the delayed payment as has been done in the case of other similarly situated employees.

8.2. Cost of the application.

8.5. Any other relief/reliefs to which the applicants is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

The applicants do not pray for any interim order at this stage.

10. *****

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 76 560918

2. Date : 7/2/02

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Niren Goswami, son of Late P.K. Goswami, aged about 33 years, at present working as Tailor in AMC Basistha Hospital, Basistha do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4¹, 4⁹, 4¹⁰, 4¹² & 5¹² are true to my knowledge and those made in paragraphs 4² to 4⁸ & 4¹¹ are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case. I am also authorised by the Applicant No.2 to sign on this verification.

And I sign on this the Verification on this the 25th day of Feb. of 2002.

Niren Goswami
Signature.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No.158 of 1994

Date of decision: This the 19th day of October 1995

The Hon'ble Justice Shri M.G. Choudhuri, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative)

Shri Nripendra Mohan Paul and 16 others,
Working as Tailors in Ordnance Branch,
222 Army Post Office C/o 99.

By Advocate Shri H. Rashid

1981

.....Applicants

1989

- versus -

1. Union of India through Secretary of Defence,
Government of India, Ordnance Branch,
New Delhi.
2. The Director General of Ordnance (Service OS-8C),
Master General of Ordnance Branch,
Army Headquarters, New Delhi.
3. Master General,
Headquarter Eastern Command, Ordnance Branch,
Fort William, Calcutta.
4. Commandant,
Advanced Base Ordnance Branch,
222 Army Post Office C/o 99.

Claim Filed

84

W.C.

By Advocate Shri S. Ali, Sr. C.G.S.C.

.....Respondents

.....
O R D E R

CHAUDHARI, J. V.C.

The 17 applicants are employees working under the Ministry of Defence, Government of India, posted under the Commandant Advanced Base Ordnance Branch, 222 Army Post Office C/o 99 and are posted in the North Eastern Region. All these applicants appear to be attached to Tailor's job and belong to Tailor trade and carry out tailoring job for the Ordnance Branch. It appears that they are presently placed in the scale of pay of Rs.210-290 which is the position existing since prior to the Third Central Pay Commission. The applicants

Attested

John
Advocate.

contend that having regard to the nature of their job they ought to be included in the category of skilled workers, but that despite their repeated representations their claim is being neglected by the respondents. The scale of skilled grade in the three trade structure on the basis of the recommendations of the Anomalies Committee vide letter of the Government of India, Ministry of Defence No.3817/DS/OSM/Civ.1/84 dated 15.10.1984 appears to be Rs.260-40065%.

2. It is averred by the applicants that at all times the Anomalies Committee has neglected to consider the Tailors as skilled workers although they have been representing from time to time. They further aver that the tailoring job is very important and an indispensable job in the Ordnance Department and it involves skill equal to other categories of workers who have been classified as skilled, namely, Painter, Cobbler, Carpenter, Book binder, Leather, Water Fitter, Brick layer, Moulder Grade "C", Boot repairer, Mason, Polisher etc. in different branches of Air Force, Navy, Army, yet they are not being recognised as skilled workers. They are not included in the three grade structure as yet. They had sent a representation to the Director General of Ordnance Services, Army Headquarter, New Delhi on 21.4.1992 pointing out that their's was an important grade and they were being deprived the benefit of three trade structure and have not been given any financial benefit prior to Fourth Pay Commission although their job is a hard job relating to day by day production of tailors job and it is a difficult type of work. It was further pointed out that prior to Third Pay Commission all trades of AOC were considered equal in the pay scale of Rs.210-290 and that although other categories were placed in higher pay scale after the Third Pay Commission Report the category of Tailors trade was continued as unskilled category and thus great injustice was done to them and they were suffering great financial loss. They requested Army Headquarters to include the Tailor trade in the skilled category and to give them the benefit of pay scale accordingly. Again on 5.7.1994 applicant

Attested

Advocate.

No.1, N.M. Paul, sent a representation to the Director General of Ordnance Services again pointing out that the Tailor trade was not included in the three grade structure by the Expert Classification Committee although the job of the applicants was a skilled job and they were not being given revised pay scales and necessary action may, therefore, be taken. No reply was received to these representations and no action was taken consistently with the prayers. Hence the applicants have approached the Tribunal by the instant O.A. on 11.8.1994. They pray that the respondents be directed to treat the Tailors job as skilled job, that the applicants be directed to be included in the three trade structure and that they may be allowed to draw skilled group grade scale prescribed for skilled job together with the other benefits and DA relief with effect from 9.11.1984.

3. The grievance of the applicants is that their claim is not being considered and they have been being neglected all throughout. Although they have rendered service for nearly 30 years in the Ordnance Branch they are denied legitimate compensation and salary for the work they are doing. This injustice which is being perpetrated should be removed. We find that the grievance is genuine and needs to be removed.

4. The written statement submitted by the respondents is not sufficient to answer the grievance of the applicants. The written statement is declared by the officiating Administrative Officer for the Commandant. All that is stated is that although Industrial Personnel belonging to the same categories of job were placed in the semi-skilled trades and further graded to skilled trade the Tailor trade was not considered as semi-skilled or skilled by the Ministry of Defence vide letter dated 15.10.1984. At the same time it is stated that as per recommendations of the Anomalies Committee as mentioned in Government of India, Ministry of Defence, letter dated 28.1.1986

Verdict 13 categories of workers (as mentioned) were considered for promotion

as skilled/semi skilled. That indicates that possibly after the report of the Fourth Pay Commission some anomaly had arisen and the matter was referred to the Anomalies Committee and it had recommended the 13 categories to be classified as skilled/semi skilled. We find in the list of those categories the following two entries:

(vii) Tailor Ord Grade

(viii) Tailor Mate

That should mean that the Tailor trade has already been recommended eligible for promotion as skilled/semi-skilled categories. That, however, has never been given effect to and that precisely is the grievance of the applicant.

5. What baffles us is the statement made further on in the same paragraph of the written statement. It is stated thus:

"The Anomalies Committee has not so far considered Tailor category as well as other categories of Industrial as well as Non Industrial personnel thus the Head of the Department cannot take any step to promote such personnel. The power has not(should be now) only been vested to anomalies committee."

A reference is made to the judgment in the case of Telecom Factory Jabalpur -vs- Union of India, CAT Jabalpur Bench Decision of 1990 (CAT Journal). Frankly speaking, we are totally unable to understand this part of the written statement. It is difficult to understand as to how the Anomalies Committee can remain in animated suspension and whether it has continued to exist. It is also not clear as to why the Anomalies Committee is required to decide the question because it is not shown that any anomaly had arisen. It is also not stated as to why the question has not so far been resolved and as to why it has not been asked to do so. The reference given to the decision of the Jabalpur Bench is not sufficient to locate the said decision. No copy thereof has also been produced. It is also not explained as to how the recommendation of the Anomalies Committee relating to Tailor ordinary grade and Tailor Mate still leaves the question of non-consideration of the Tailor trade by the Committee. The written statement only tries to protect respondent No.4 by stating that he

as the head of the department is unable to take any steps in the absence of any recommendation of the Anomalies Committee. It is not shown as to why the Director General of Ordnance or the Army Headquarters or the Ministry has not taken any decision on the point. Moreover, the written statement speaks of promotion as skilled/semi-skilled workers. The applicants, however, have claimed only the categorisation as skilled workers and scale payable to them. Perhaps that is being construed as promotion by the respondent No.4.

6. Neither party has enlightened us about the pay being paid to the applicants as at present nor they have furnished any information as to the position after the report of the Fourth Pay Commission. Thus on the existing material as is placed before us and finding some difficulty owing to paucity of relevant material we have no choice but to decide the claim of the applicants on the basis of the existing material.

7. The applicants have averred in paragraph 1 of the application that their job is a skilled job. They have stated thus:

"The Tailor job is very important and indispensable job in the Ordnance Department (Branch) in the Defence Department. The intelligensia required is no less than painter, cobbler, carpenter, Book-binder, leather, water, fitter, brick layer, Moulder grade "C", Boot repair, mason, polisher etc. in different branches of Air Force, Navy, Army, department, which should be recognised as skilled job and as such should be included them under the skilled group grade."

As noted earlier in the representation dated 21.4.1992 they have stated that the Tailor job is one of the most important trades and Ordnance service. There is no denial of this assertion of the applicants nor it is the case of the respondents that the job of the Tailors cannot be considered as skilled job having regard to the nature of the work performed by them in comparison with the work carried out by other trades who have already been categorised as either skilled or semi-skilled. The written statement shows that following

trades.....

*Dear
Advocate.*

trades have so categorised:

- i) Packer Ord Grade
- ii) Packer Mate
- iii) Tentmender Ord Grade
- iv) Tentmender Mate
- v) Ropeworker Ord Grade
- vi) Ropeworker Mate
- vii) Tailor Ord Grade
- viii) Tailor Mate
- ix) Chuckler Ord Grade
- x) Chuckler Mate
- xi) Lister Driver
- xii) Sawyer Ord Grade
- xiii) Sawyer Mate

The nature of the work performed by Tentmender and Ropeworker cannot be as involving more skill than required in the tailoring job.

We are not, therefore, convinced that on any rational ground the applicants could be treated as unskilled workers. It appears that their category has remained to be considered owing to sheer neglect on the part of the authorities concerned.

8. The particulars given by the applicants show that one of the applicants joined the service in 1962, 5 applicants joined the service in 1963, one applicant joined the service in 1964, 2 applicants joined in 1965, 5 applicants joined in 1966, one applicant joined in 1967 and only applicant No.1 had joined service in 1976. The applicants have thus put in considerable length of service and it is obvious that their services were found satisfactory as they have been continued in the job. Necessarily they have also gained experience in the work required in the Ordnance Department. That strengthens their case for treating them as eligible for skilled grade. In the absence of any material being shown that the scale was revised and enhanced after the Fourth Pay Commission we can only go by the statement contained in the representation of the applicants dated 21.4.1992

indicating that their pay scale was Rs.210-290 and the skilled grade prescribed under the three grade structure was Rs.260-400. Assuming that these grades had been revised, with the length of service and the nature of work which the applicants are performing continuing to pay them for their services in the old scale of Rs.210-290 (at the rate of corresponding increase, if at all there has been any increase) appears to us to be grossly unfair having regard to the overall pay structure of Government employees in various departments. In our view the applicants deserve to be included in the category of skilled grade under the three grade structure without further delay as no action has been taken on their representations dated 21.4.1992 and 5.7.1994.

Civil
15/10/89
SL 12
Wphd
15/10/84
Revt. 7
Attested
W. D. W. D.
Advocate.

10. A copy of the letter of the Government of India, Ministry of Defence, addressed to the Chief of Army Staff etc. on the subject of fitment of Industrial workers in pay scales recommended by the Third Pay Commission bearing No.17(5)/89-1(Civ-1) dated 19.3.1993 has been brought to our notice. After referring to Government letter dated 15.10.1984 and the decision of the Supreme Court in WP 12259-66/1984 it contains the decision of the President of India to the effect that all the trades which had been granted the "skilled" grade from semi-skilled grade with effect from 15.10.1984 will now be given the benefit of the pay scale of skilled grade (Rs.260-400) with effect from 16.10.1981 subject to the other conditions mentioned in the letter dated 15.10.1984. It also provides that arrears of pay and allowances will be admissible to the employees concerned including those who were in service during the relevant period, but are no longer in service owing to retirement, resignation, death etc. In our opinion the applicants should also be given the benefit of this decision.

11. Bringing the applicants into the skilled category so as to make them eligible for skilled grade involves upgradation. From the aforesaid letter it is seen that sanction of the President is required

for the upgradation and consultation with the Ministries of Finance and Defence is also necessary to make the payment of arrears permissible. Because of these requirements it will not be open to us to make an order of upgradation or payment of higher grade arrears straightaway. We would ~~only~~ ^{wish} add that the respondents should take the necessary steps to comply with the formalities so as to extend the benefit to the applicants without loss of further time.

12. In the result following order is passed:

i) We direct the respondents to take effective steps for obtaining the sanction of the President and concurrence of the concerned Ministries of the Government of India to declare the applicants in the Tailor grade as "skilled workers" and to grant them thereafter subject to the sanction, the skilled grade with effect from 9.11.1984 as prayed by them on the conditions contained in the Government letter dated 15.10.1984 as modified by the decision of the Government of India contained in the letter dated 19.3.1993.

ii) We direct the respondents to carry out the aforesaid exercise within a period of three months from the date of communication of this order and thereafter subject to the decision taken, to pay the arrears of pay and allowances to the respective applicants as may be found payable as a result of granting antedated skilled grade scale in accordance with the aforesaid guidelines, within a period of two months thereafter.

13. The original application is partly allowed in terms of the above order.

14. Copy of the order should be forwarded to all the respondents separately. A copy also be furnished to Mr S. Ali, Sr. C.G.S.C.

Identified / A true Copy

APD/MS/SAF/1984

20/6/98
S. Ali, Secretary
Central Commission for
Backward Classes

Sd/- VICE CHAIRMAN

Sd/- MEMBER (AUMN)

Advocate

Concurred in by the respondents in the aforesaid order.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.202 of 2000

Date of decision: This the 17th day of May 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Md. Ashraf,
 Civil Tailor,
 No.44253, A R C, Shillong,
 Order No.M.T.42/2 MES, Power House,
 Happy Valley, Shillong.

.....Applicant

By Advocates Mr S. Ali and Mr B. Seal.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Commandant, Assam Regimental Centre, Shillong.
3. The Directorate General of Infantry General Staff Shakha/General Staff Branch, H.Q. P.O. New Delhi.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)CHOWDHURY.J. (V.C.)

This case is squarely covered by the decision rendered by the Tribunal in O.A.No.158 of 1994, Shri N.M. Paul and 16 others vs. Union of India and others, disposed of on 19.10.1995.

2. The applicant is a Civilian Tailor working under the respondents with effect from 20.4.1978 in the pay scale of Rs.200 to 250/- per month. The applicant submitted representations before the authority requesting the authority to remove the anomaly in the pay structure

ANNEXURE
V.C.
18/5/2001

and to grant him the pay scale of skilled employee. In the meantime, seventeen other persons, similarly situated, moved the Tribunal by way of O.A.No.158/1994. The Tribunal after hearing the parties disposed of the said application with the following directions:

"i) We direct the respondents to take effective steps for obtaining the sanction of the President and concurrence of the concerned Ministries of the Government of India to declare the applicants in the Tailor grade as "skilled workers" and to grant them thereafter subject to the sanction, the skilled grade with effect from 9.11.1984 as prayed by them on the conditions contained in the Government letter dated 15.10.1984 as modified by the decision of the Government of India contained in the letter dated 19.3.1993.

ii) We direct the respondents to carry out the aforesaid exercise within a period of three months from the date of communication of this order and thereafter subject to the decision taken, to pay the arrears of pay and allowances to the respective applicants as may be found payable as a result of granting antedated skilled grade scale in accordance with the aforesaid guidelines, within a period of two months thereafter."

In terms of the aforesaid order Presidential sanction was issued and order to that effect was issued vide letter No.MCO/OS-20/785-LC/D(Civ.I) dated 15.10.1996 granting Skilled Grade to those seventeen applicants of the aforementioned O.A.

3. In the circumstances, the present applicant, since similarly situated, is also entitled for similar benefits.

4. The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Admn)

nk m

Attested

Advocate.

- 21 -

To,
 The Commandant
 151, Base Hospital
 C/O. 99 APO

(Through - Proper Channel)

Ref :- O.A. No. 158/94, O.A. No. 202/2000 and our representation dated 30.12.98.

Sub :- Request for treating us Tailor as Skilled Tailor and group pay scale of skilled Tailor with effect from 1984 and 1989 respectively.

Sir,

Most respectfully showeth :-

1. That we have been working as semi-skilled tailor since our date of appointment. I, Mohammad Muslim have joined on 12th January 1981 in the pay scale of 210 to 290 and Niren Goswami was appointed on 14th January 1989 in the Pay Scale of Rs.800 to 1150 in the revised scale (4th Pay commission recommended pay scale).
2. That in January 1996, the pay scale of both of us were revised to Rs.2650-4000/- after Vth pay commission but at that time our monthly pay scale ought to have been Rs.3050-4590/-.
3. That it may be stated, ^{that} all the applicants referred in O.A. No. 158/94, and OA No. 202/2000 have been given the benefit of pay scale with effect from 1984 as skilled tailor.
4. That we are also similarly situated position and hence we should also be treated as skilled tailor and required pay of skilled tailor should be paid from November 1984 and January 1989 respectively.
5. We, therefore request you kindly to treat us as skilled tailor and the pay of the skilled tailor should be paid to us from November 1984 and January 1989 respectively and oblige.
6. In this connection we have been informed by your office that case is under consideration by the Govt. of India. Though approximately three years have passed but there is no progress in this regard.
7. Further, it is prayed that in case our cases are not considered as skilled tailor and benefit not given as prayed for within one month from the date of receipt of this representation, we will have no other alternative but to seek legal help.

Yours faithfully,

Copy to -

- 1) Head Quarters
 101 Area (MED)
 C/O. 99 APO.
- 2) Head Quarters
 Eastern Commandand (MED)
 Forth William
 KOLKATA - 21
- 3) The DTE GEN. of Med. Services (Army) DGMS-3(B)
 Adjustant General's Branch
 Army Head Quarters
 'L' Block, New Delhi - 110001.

1. *Jt B B D M H J*
 (MD. MUSLIM) TLR. 10/11/01

2. *N/Gen. Goswami*
 (NIREN GOSWAMI) TLR. 10/11/01

Ans
Ans
Ans

To,

The Headquarters
Eastern Command (Adm)
Fort William, Calcutta-21

Sub :— Consolidated Case for implementation of grant
of Pay Scale Benefit granted to petitioners of
CAT/Court case to similarly placed non-petitioners

Sir,

- (1) We have the honour to state that the following
few lines for your necessary action please.
- (2) Sir, our application has been forwarded to your
HQ vide letter No. 437/2/Div Law/Cpy dt. 25 Aug. '99.
But till to date no any information received on the
subject.
- (3) It is therefore prayed that your honour would be
kind enough to consider our case sympathetically
at the earliest and intimated to us please.

Thanking you sir,

Yours faithfully

A.P. Sarker
SAC

(1) (MHRM COOMAR) (T.R.)

Dated on 20 Sept. '99

19/9/1999

(2) (M.R. MOHAMMID) (T.M.)

151 Base Hospital
C/o. DR REO

100
Sarker
Sarker

SIR,

The Commandant
151 Base Hospital
C/O. 99 APD

(Through— Proper Channel)

SIR,

1. We have the honour to state that we the applicants are working as Tailor (Semi-Skilled) in the Pay Scale of Rs.2650 (as per 4th Pay Commission) in 151 Base Hospital C/O. 99 APD, for a long time.

2. During Third Pay Commission the following trades were considered equal in the Pay Scale of Rs.210-290 as Semi-Skilled :-

- (a) Boot Maker
- (b) Painter - III
- (c) Carpenter - III
- (d) Tailor.

3. We, on 15th October '84, the following trades were upgraded from Semi-Skilled grades (Rs.210-290) to the Skilled grade (Rs.260-400) :-

- (a) Boot Maker
- (b) Carpenter
- (c) Painter.

4. Although other categories were placed in higher pay scale after the Third Pay Commission Report the category of Tailor's trade is continued as Semi-Skilled Category. The Tailor's trade is not included in the Three Trade structure although our job is a skilled job.

5. In this regard we enclose a copy of judgement pronounced in case No. OA 158/84 dt. 19th October '95 by the Hon'ble CAT, Guwahati Bench and Govt. of India, Ministry of Defense letter No. NGO/OS-20/705-LC/0(Civ.-I) dt. 15th October '96 for your perusal.

It is therefore prayed that your honour would be kind enough to consider our case sympathetically for inclusion as Skilled Grade Tailor in the Pay Scale Rs.3050-4900 (Revised 4th Pay Commission) for which we shall be ever grateful to you.

Yours faithfully,

1. (M. H. Md. Muslim)

2. (M. Hasan)

Dated: 30 Dec., 1998

151 Base Hospital
Daulatia
Guwahati-Asam

REMARKS OF COMD, 151 Base Hospital

Attest
M. H. Muslim
Advocate.

Government of India,
Ministry of Defence,
New Delhi, the 15th Oct., 1996.

-24- ANNEXURE- 4

The Chief of the Army Staff.

Subject: Implementation of CAT Guwahati Bench Judgement dated 19.10.95 in OAI No. 158/94 -
Shri Nripendra Mohan Paul and 16 others, working as Tailors in Ordnance Branch, 222 Army Post Office C/o 99 Versus Union of India and Others.

Sir,

1. I am directed to refer to the aforesaid order and judgement of the Hon'ble CAT Guwahati Bench and to convey the sanction of the President granting the skilled grade of Rs. 1260-400 from 16.10.81 revised to Rs. 950-1500 from 1.1.86 to the 17 petitioners who are working under the Commandant Advanced Base Ordnance Branch, 222 Army Post Office C/o 99. The arrears of payment will be accounted as charged expenditure for which separate sanction will be issued in due course after working out the arrears. The payment will however be made subject to outcome of Review Application proposed to be filed in the Supreme Court.

2. This issues with the concurrence of Finance Division vide their U.O. No. 650-47/PB/96 dt. 11.10.96 and in consultation with Ministry of Finance vide their U.O. No. C-309/IC/96 dt. 11.10.96.

Yours faithfully,

(C. A. Subramanian)
Under Secretary to the Govt. of India
Tele. 3014575.

Copy to:-

1. OS Dte./OS-20

2. CDA concerned (copy signed in ink)

3. MG AOC, Eastern Command, AOC (Record), Secunderabad

4. Army HQ OS-80, AG Branch, AFA(O-1A)/AFA(AG), Comdt 222 AOB

5. Min of Dof/D(Civ-I)

Attested

Balooji Seal
Advocate.

Attested
Balooji