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**Central Administrative Tribunal
Jabalpur Bench**

OA No.44/05

Jabalpur, this the 2nd day of ~~July~~^{August} 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Dilip Kumar Sahu

S/o Shri Shivcharan Sahu

Civil Tailor

Staff No.9704745, 3, E.M.E.Centre

Bairagarh, Bhopal

R/o Ashok Vihar

Hathaikhera Road

Anand Nagar, Bhopal.

Applicant

(By advocate Shri Sajid Akthar)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.
2. Director General of Electrical &
Mechanical Engineering
DHQ, Army Headquarters
New Delhi.
3. The Commandant
3, E.M.E.Centre, Bairagarh, Bhopal.
4. The Commandant
3, E.M.E.Centre
Bhopal-462 031.

Respondents

(By advocate Shri Harshit Patel on behalf of Shri S.C.Sharma).

ORDER

By A.K.Gaur, Judicial Member

By filing this OA, the applicant has claimed the following relief:-

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- (i) Set aside the order dated 12.4.04.
- (ii) Direct the respondents to grant upgraded pay scale Rs.260-400 w.e.f. 16th October, 1981.
- (iii) In the alternative direct the respondents to consider the matter afresh as directed by this Tribunal in OA No.417/98.

2. The applicant is presently working as a Civil Tailor, 3.E.M.E.Centre, Bairagarh, Bhopal. It is contended by the applicant that vide order dated 15th October, 1984, the President of India accorded sanction for upgradation of certain posts from Semi Skilled Grade in the pay scale of Rs.210-290 to Skilled Grade Rs.260-400 w.e.f. October 1981. Several employees working as Tailors in different Ordnance Depots including E.M.E.Centre, Secunderabad approached different Benches of this Tribunal seeking the upgraded scale. The Hyderabad Bench of the Tribunal allowed such a claim in OA No.1106/93 vide its order dated 20th September, 1993 (A-1). According to the applicant, several employees of the M.E.S. working in different trades as Carpenter, Mason, Painter etc. approached the Hon. Supreme Court seeking the upgraded scale of pay with effect from October 1981 instead of 1984 and their SLP was allowed (Bhagawan Sahai Vs. Union of India & Ors. - reported in AIR 1989 SC 1215. Following this judgement of the Supreme Court, Shri Balbeer Singh and Shri Indrajit Singh, working as non-industrial Boot Maker and non-industrial Tailor respectively approached the Hon. Supreme Court through W.P.484/98 and the Apex Court observed as follows:

“Before we part, we would like to state that the department should grant the benefit uniformly to all those trades which were to be upgraded after the Deputy Secretary’s letter dated 15.10.1984. We do hope that they will not be driven to Court to receive the benefit of which they are entitled as per the interpretation put by this Court in Bhagwan Sahai case (Supra)”.

Accordingly the benefit was extended to the two employees namely Balbir singh and Indrajit Singh.

3. Relying upon the said judgement, the applicant and others approached this Tribunal seeking the upgraded scale and the Tribunal

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vide its order dated 9th September 2002 disposed of their OA No.417/98 with certain directions (A-5). It has been contended by the applicant that without awaiting the decision of the Government of India, the respondents have turned down the claim of the applicant vide order dated 12.4.2004 which is under challenge in the present OA.

4. The respondents in their reply have contended that pursuant to the recommendations of the 3rd Pay Commission, an Expert Classification Committee was constituted to consider various industrial workers working in various trades for their upgradation and on the basis of the recommendations of the Expert Committee, certain Semi Skilled Grade workers were upgraded from Rs.210-290 to Rs.260-400 with effect from October 1981. The applicant is working as a non-industrial Tailor and there was no recommendation for upgradation of scale of non-industrial Tailor to Rs.260-400/-. The Expert Classification Committee and the Anomaly Committee had recommended the pay scale of Rs.210-290 for Semi Skilled non-industrial workers and therefore the question of granting higher pay scale to the applicant does not arise. Regarding the classification of Industrial workers, Skilled and other categories, the respondents have stated thus:-

"The classification of various industrial workers, skilled and other categories was based upon the recommendations of the Expert Classification Committee set up by the Ministry of Defence in October 1974 in pursuance of recommendations of the 3rd Central Pay Commission headed by a retired Judge of the Hon. High Court, Allahabad and the ECC adopted points rating method for evaluating more than 1700 industrial jobs after assigning specific weightage to various factors such as education, training, experience, job skill, physical, mental, visual efforts, material etc. The ECC recommended fitment of the industrial workers in the following categories:-

S.No.	Categories	Point Rating	Pay Scale (3 rd)
1	Un-skilled	Upto 205	Rs.196-232
2	Semi-skilled	206-250	Rs.210-290
3	Skilled	351-328	Rs.260-400
4	Highly Skilled	329-388	Rs.330-480

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	Grade II		
5	Highly Skilled Grade I	389 and above	Rs.380-500

On the basis of point rating evaluation, the non-industrial Tailor Trade of EME was classified as Semi-Skilled. The recommendations of Expert Classification Committee were accepted by the Government and orders were issued by the Ministry of Defence vide their letter No.1(2)80/D(ECC)/IC dated May 11, 1983 in respect of industrial workers and dated 22.8.1983 for the fitment of industrial worker in the above scales and benefit was given with effect from October 16, 1981. The action of the Government was based on sound principles laid down in the judgement of the Hon. Supreme Court in C.A. No.3999-1033 of 1998 (Shri Thiruvalluvan and others vs. UOI) which held that the pay scales allotted to each category of Industrial employees on the basis of job evaluation done by the ECC cannot be termed as arbitrary. It may be mentioned here that not only the Tailors but several thousands of other Tradesmen of Defence Establishments were also fitted in the Semi-Skilled Grade on the basis of the Expert Classification Committee fitment formula as accepted by the Government. The fitment of industrial workers in the above five scales, however, created some anomalies in respect of certain trades. Therefore, the Ministry of Defence constituted an Anomalies Committee on whose recommendations some of the trades were upgraded but it did not include the trade of Tailors in the EME in as much as, according to the terms and reference of the Committee, no anomaly arose in this case. Thus the trade remained in the Semi-Skilled Grade. The recommendations of the Anomalies Committee were implemented vide Government order dated 15.10.1984. It is further respectfully submitted that the Full Bench of the Mumbai Tribunal in its judgement dated 20.6.2001 in OA Nos. 735/99, 740/99, 891/99, 971/99, 132/99 and 252/2000 has reviewed earlier judgements delivered by various benches of the Hon. Tribunal including that delivered by the Hyderabad Bench, in case of Tailors and have observed as under:-

- (i) The learned counsel for applicants referring to facts of some OAs under consideration, tried to show that the action of the Ministry in upgrading some jobs from Semi Skilled to Skilled Grade and revising pay scale of those jobs alone while leaving out applicants' job of Tailors from the Skilled Grade is unreasonable and bad in law. It is correct that some jobs have been upgraded and pay scale has also been revised by the Ministry, but that was done on the recommendations of the Anomalies committee/3rd Pay Commission. The 3rd Pay Commission was an expert body entrusted to recommend what jobs be upgraded and pay scale be

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revised. The 3rd Pay Commission recommendation is not under challenge. The applicants have neither challenged recommendation of Anomalies Committee/3rd Pay Commission nor are they seeking any relief against procedure adopted and conclusion drawn by it. There is a presumption that such a body has taken into consideration all the relevant factors in making its recommendation. Therefore, as it did not recommend the Tailors Trade to be upgraded as Skilled and pay be revised and when the Ministry of Defence has only followed the recommendation of Anomalies Committee/3rd Pay Commission recommendation, which is apparent from tenor of letters mentioned earlier, it cannot be considered discriminatory, nor one can say that classification is not a reasonable classification.


- (ii) So far as arguments in respect of arbitrary discrimination is concerned, in classifying and categorizing Tailors from other difference trades because the trades of Boot Makers, Carpenters, Painters were upgraded, the said trade involved different process and nature of work. They cannot be equated with Tailors. The two jobs are different. They are not per se discriminatory. Therefore, it is held that the applicants have failed to establish discrimination with the jobs of Boot Makers, Carpenters and Painters.
- (iii) Merely because some employees get benefit by a wrong decision of a Bench cannot be a ground for granting benefit to others.
- (iv) We hold that the pronouncement of that case (Guwahati Bench judgement dated 19th October, 1995 in OA No.158/1994 filed by Shri Nripendra Mohan Paul Vs.UOI and others) is not a good law.
- (v) The next cases cited were to Eshwarlal and B.Ramdas (supra), wherein the Hyderabad Bench relying upon the order of the Bangalore Bench of the Central Administrative Tribunal passed the order granting the relief to Tailors holding that there is discrimination in not upgrading the posts of Tailors and limiting it to specific trades. While passing the order, the Bench has observed that benefit cannot be limited to the trade specified and that is how it has given the benefit to applicants Tailors of that case without assigning any reason of its own. However, as that decision does not lay down correct law for reasons mentioned earlier, we disapprove it.

Thus it is evident that the pay scale granted to the applicant is based upon the recommendations of Expert Classification

Committee and the question of granting higher pay scale to him does not arise".

5. Having considered the arguments advanced by the parties, we are satisfied that the Expert Classification Committee and the Anomalies Committee has recommended the pay scale of Rs.210-290/- for Semi-Skilled non-industrial workers. Therefore, the applicant is not entitled to the benefit of the upgraded posts. The full Bench decision of the Mumbai Bench has already held that the order passed by the Hyderabad Bench of the Tribunal is not in consonance with the provisions of law and the same has been held to be bad in law. We have also seen the Supreme Court decision reported in 1999 SC (L&S) 616 – Chief Administrator cum Joint Secretary Vs. Deepak Chandradas. According to this decision, the Tribunal has no jurisdiction to issue a direction to fix the pay scales of employees.

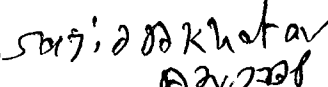
6. In the facts and circumstances of the case, the OA has no merit and it is dismissed. No costs.


(A.K. Gaur)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

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पुस्तक सं जो/व्या.....
प्रतिलिपि अर्पित:-
(1) सचिव, उच्च न्यायालय वार एरोमिशान, कलकत्ता
(2) आवेदक श्री/श्रीमती/कु.....
(3) प्रत्ययी श्री/श्रीमती/कु.....
(4) बंधुपाल, के.प्र.अ., जलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु


S.C. Sharma
17-8-06

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