

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

Original Applications No 654 of 2003

Jabalpur, this the 29th day of March, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Avinash Kumar Nigam, S/o. Shri P.D. Nigam,
Aged 44 years, Occupation : Service, presently
Posted as SK/AC H.M. & SEC office of the Development
Commissioner (Handicrafts), 38 Ravi Nagar,
Gwalior.

Applicant

(By Advocate – Shri J. Sharma)

V E R S U S

1. Union of India,
Through Secretary,
Ministry of Textile, Udyog Bhawan,
New Delhi.
2. Development Commissioner (Handicrafts),
Ministry of Textile, West Block No. VII,
R.K. Puram, New Delhi – 110066.
3. Director (Regional), Office of the Development
Commissioner, (Handicrafts), Ministry of Textile,
294, P. Nariman Street, "Fort" 3rd Floor, Haroon
House, Mumbai – 400001.
4. Assistant Director (Handicrafts)
Commissioner, (Handicrafts), Ministry of
Textile, Handicrafts Marketing & Service,
Extension Centre, 38, Ravi Nagar, Gwalior.

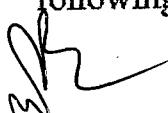
Respondents

(By Advocate – Shri P.N. Kelkar)

O R D E R

By M.P. Singh, Vice Chairman –

By filing this Original Application, the applicant has sought the
following main reliefs :-



“i) the impugned order contained in Annexure A-1 may kindly be quashed alongwith all consequential benefits,

ii) the respondents may kindly be directed to make payment of salary to the applicant as admissible to the post of ITO, for relevant period for which he discharged his duties as ITO and his salary be refixed accordingly,

iii) the respondents may kindly be further directed to make payment of entire arrears of pay alongwith 18% interest.”

2. The brief facts of the case as stated by the applicant are that the applicant ~~is~~ ^{was} holding the post of Store Keeper cum Account Clerk and is ^{presently} ~~was~~ working in the office of Assistant Director, Development Commissioner (Handicrafts), Ministry of Textile, Handicrafts Marketing and Service Extension Centre, 38, Ravi Nagar, Gwalior. While he was discharging his duties against his substantive post of Store Keeper/Account Clerk in the respondents Department, he was posted by the respondents in Hand Block Printing Training Centres earlier at Mathura and thereafter at different places in different periods. When the training officers were not available for discharging their duties, the applicant was asked to perform the higher duties/responsibilities of Incharge Training Officer (for short ITO) in different spells during the period from 18th June, 1984 to 30th September, 2001. Since, the respondents did not pay the regular pay scale to the similarly posted Store Keeper in Carpet Wing performing the duties of ITO, the aggrieved employees filed OA before the Hon'ble Jammu & Kashmir High Court and Allahabad Bench of the Tribunal and in these matters the Courts have directed the respondents to pay them the same scale of pay and other benefits for the post of Carpet Training Officer. Thereafter, the matter came up before the Hon'ble Apex Court and the Hon'ble Apex Court dismissed the appeal of the applicants and confirmed the order of the Tribunal. The case of the applicant is fully covered by the judgment rendered by the Allahabad Bench of the Tribunal in the case of Santosh Kumar Shrivastava & Ors. Vs. Union of India & Ors. (OA/141/1993)



decided on 31.5.2001 (Annexure A-4). He, therefore, submitted a representation enclosing the copy of the above said orders to the authorities for extending the same benefit and the respondent No. 4 forwarded his representation to the respondent No. 3 (Annexure A-5). But the respondents did not take any decision on the representation of the applicant. Hence, the applicant filed OA No. 474/2002 before this Bench of the Tribunal. The Tribunal vide its order dated 28th November, 2002 issued the similar direction as issued by the Allahabad Bench of the Tribunal in favour of the other employees, for taking decision on the representation of the applicant. Thereafter, the applicant submitted a fresh representation to the authorities as per direction issued by the Tribunal. The respondent No. 3 has passed the impugned order and rejected the claim of the applicant. Hence, this Original Application is filed.

3. The respondents in their reply have stated that it is apparently incorrect and misleading that the applicant had successfully completed his service tenure as ITO at different centres. According to the respondents he was holding the post of Store Keeper cum Account Clerk and was working as such only wherever he was posted. At no point of time he was ordered by any competent authority to discharge the functions of the ITO along with or apart from his own duties and functions as Store Keeper/Account Clerk. The respondents have further stated that the applicant has not filed any document or evidence to substantiate his statement that he ever discharged the duty of the ITO. It is also denied by the respondents that he was posted in various centres when no training officer was available at that centre. It is further submitted by the respondents that the judgment submitted by the applicant at Annexure A-4 relates to different set of employees and the circumstances were also different and as such the said judgment is of no help to the applicant. Moreover in the same judgment at Annexure A-4 an extract of the decision of the Apex Court has been quoted wherein the Apex Court itself expressed a



serious doubt as to whether in the absence of any order of promotion, Carpet Training Officer's pay scale could be allowed by the Tribunal to the applicants therein. But the Apex Court did not proceed to remove the doubt since no SLP was filed by the Union of India against the judgment of the Tribunal. Thus, the said judgment is absolutely of no help to the applicant and the applicant cannot take advantage of the said judgment. In view of the averments made above, the applicant is not entitled to any of the reliefs claimed by him and the Original Application is liable to be rejected with costs.

4. Heard both the parties and carefully perused the pleadings and records.

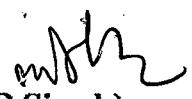
5. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the question for consideration before us is whether the applicant had performed the duties of ITO for different spells and whether he is entitled for the higher pay scale of that post for performing such duties. The applicant has mentioned the period for which he has worked as ITO i.e. from 18th June, 1984 to 30th December, 2001 as stated by him in paragraph '4.iii' of the OA. It is seen from the documents placed before us that no specific orders have been issued by the respondents in respect of the applicant to perform the duties of the ITO. However, the applicant has filed a letter dated 16th June, 1984 (Annexure A-2) which has been issued from the office of the Development Commissioner (Handicrafts), asking the applicant to take over the charge of Block Engraving Training Centre, Mathura. We find that the respondents while rejecting the claim of the applicant by the impugned order dated 22nd July, 2003 (Annexure A-1) have taken the ground that vide the judgment dated 31st May, 2001 passed in OA No. 141/1993 and other connected matters, the applicants have been given the opportunity to make application before the DC(H) claiming the scale and pay of Carpet Training Officers and not of Incharge Training Officers



applicable in the case of SK/ACs posted at HBPTCs and Shri Nigam was not an applicant in this OA himself, and ^{therefore} rejected the claim of the applicant. We find that the contention of the respondents is not correct and the applicant is a similarly placed person. We have gone through the aforementioned judgment passed on 31st May, 2001 in OA No. 141/1993 and other connected matters and we find that the present case is squarely covered by the judgment dated 31st May, 2001. We, therefore, respectfully agree with the judgment dated 31st May, 2001 and direct that the same ^{shall} ~~will~~ mutatis mutandis ^{be} applicable to the present case as well.

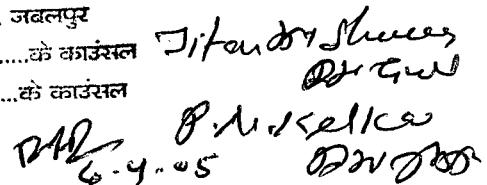
6. In view of the above, we direct the respondents to grant the same benefits to the applicant as has been granted to the applicants of OA No. 141/1993 and other connected matters, within a period of six months from the date of receipt of a copy of this order. Accordingly, the Original Application stands disposed of. No costs.

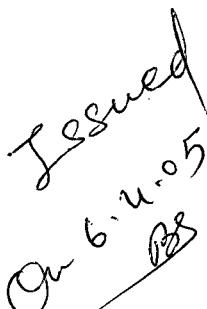

(Madan Mohan)
Judicial Member


M.P.Singh)
Vice Chairman

“SA”

पूछांकन सं ओ/व्हा....., जबलपुर, दि.....
प्रतिलिपि अब्दो लिहा:-
(1) शक्ति, उत्त्य व्यायालय दाता प्राप्तिलिपि, जबलपुर
(2) आवेदक श्री/श्रीमती/स्त्री..... के काउंसल
(3) प्रत्ययी श्री/श्रीमती/स्त्री..... के काउंसल
(4) अधिकारी, लोगो, जबलपुर व्यायालय
सूचना एवं अवश्यक कार्यवाली हेतु


P.M. Selvaraj
6-4-05
607 उप रजिस्ट्रार


Issued
On 6.4.05
By P.M.S