

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Applications Nos. 311/2001 and 367/2001

Jabalpur, this the 6th day of May, 2004

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

(1) Original Application No. 311 of 2001

Roop Narayan Sahu
S/o Shri Barelal Sahu
aged 51 years, Fitter,
Gun Carriage Factory,
Jabalpur & 140 Others

APPLICANTS

(By Advocate - Shri S. Paul)

VERSUS

Union of India through its Secretary
Ministry of Defence(Production)
New Delhi. and 2 Ors.

RESPONDENTS

(By Advocate - Shri B.da.Silva)

(2) Original Application No. 367 of 2001

R.K. Shrivastava,
S/o Late A.B.L. Shrivastava,
aged about 40 years,
Examiner Skilled, VFJ, Jabalpur
and 95 Ors.

APPLICANTS

(By Advocate - Shri S. Paul)

VERSUS

Union of India,
Through its Secretary
Ministry of Defence Production
New Delhi and 2 Ors.

RESPONDENTS

(By Advocate - Shri P.Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

As the issue raised in both the afore-mentioned cases is common and the facts involved & grounds raised are identical, both these OAs are being disposed of by this common order.

Contd....2/-

2. In both the OAs the applicants have claimed the following main relief -

"Upon holding that the action of respondents is not giving the benefit of pay-scale of Rs.260-400 from the date of appointment of the applicants is bad in law and command them to grant the same from the date of applicants appointment in the semi skilled trade with all consequential benefits".

They have also sought a direction to quash the show cause notices issued to them. It is an admitted fact that in both the OAs the applicant have been appointed in the skilled grade after 16.10.1981. Therefore, their cases are fully covered by the decision of this Tribunal in the case of Tushar Kumar Hazra & 13 others Vs. Union of India and others, O.A.No.593 of 2000 decided on 8.4.2004. Paragraph 5 of the said decision is relevant and the same is reproduced below.

"It is an admitted fact that on the basis of the recommendations made by the ECC and Anomalies Committee certain trades were upgraded to the pay scale of Rs.260-400 with effect from 16.10.1981. Certain other trades which were upgraded on the recommendations of the Anomalies Committee from 15.10.1984 were also given the date of effect of upgradation w.e.f.16.10.1981, consequent to the decision of Bhagwan Sahai Carpenter (AIR 1984 SC 1215) but the condition (in the case of direct recruit with ITI certificate/ex-trade apprentice/NCTVT inducted in the semi-skilled grade) of two years service for getting the higher pay scale of Rs.260-400 was also made applicable. It is an admitted fact that the applicants were appointed from 7.3.1982 i.e. between the period from 16.10.1981 to 15.10.1984. The main contention of the applicant is that those who were already working in these trades on 16.10.1981, no such condition of two years has been prescribed for them for upgradation and, therefore, the condition prescribed for two years for fresh recruits after 16.10.1981 in the letter dated 15.10.1984 is not sustainable and is against the rules. We find that those persons who were already in service on 16.10.1981 (which was prescribed as the cut off date) were not fresh/direct recruits and, therefore, the respondents have not prescribed any further period for their upgradation. However, the employer is free to prescribe any conditions of service and also the cut off date in respect of subsequent appointees after 16.10.1981. In view of this, we do not find any illegality in the decision taken by the respondents in their action."

3. The learned counsel for the applicants has

Contd...3/-

submitted that the decision of the Hon'ble Supreme Court in the case of Union of India and others Vs. K.S. Joseph and others 2004 SCC(L&S)414 referred to in OA 593/2000 relates to the employees who were recruited after 1984, therefore, they were held to be not entitled to the benefit of higher upgradation, whereas the present applicants were appointed between 16.10.1981 and 15.10.1984. We find that the decision in the case of K.S. Joseph (supra) has already been discussed in paragraph 6 of the decision of this Tribunal in the case of Tushar Kumar Hazra (supra). The points raised by the learned counsel for the applicants have already been discussed by the Tribunal in para 5 of order in the case of Tushar Kumar Hazra, reproduced in para 2 above. As the present applicants were appointed between 16.10.1981 and 15.10.1984, their cases are fully covered by the aforesaid decision in the case of Tushar Kumar Hazra. We also find that the Hon'ble Supreme Court in the case of Union of India & anr. Vs. P.V. Hariharan & anr. 1997 SCC(L&S)838 has held that "quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated as well as those situated above and below put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter". In the instant case the respondents have taken a conscious decision to grant the benefit of upgradation to those existing employees who were in service on 16.10.1981. It is an admitted fact that the applicants were recruited after 16.10.1981. Therefore, they cannot compare their case with those of the persons who were in skilled grade as on 16.10.1981. No case of hostile discrimination has been made out by the applicants calling

for our interference. In this view of the matter, we do not find any ground to interfere with the decision taken by the respondents.

4. In the result, for the reasons stated above, both the OAs 311/2001 and 367/2001 are dismissed, however, without any order as to costs.

5. The Registry is directed to supply a copy of the memo of parties of both the OAs, along with a copy of this order, at the time of supplying copies of this order to the concerned parties.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman.

rkv.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पसिलिगि जगहे भिरा--

(1) सदिय, जय जगहे भिरा, जबलपुर

(2) अग्रेडक श्री/सिद्धी/.....के लउंसल

(3) प्रत्ययी श्री/सिद्धी/.....के काउंसल

(4) जयपाल, के.भा.अ, जबलपुर जगहे भिरा
सूचना एवं आवश्यक कार्यवाही हेतु

Bayimda
उप सिलिगि
17/5/04

S. Paul

T.S. dan/ke

P. Shankar

Forwarded
on
17-5-04