

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 1017/2000

Jabalpur, this the 20<sup>th</sup> day of April, 2004

Hon'ble Shri M.P. Singh - Vice Chairman  
Hon'ble Shri Madan Mohan - Member (J)

1. Biharilal Vishwakarma  
s/o Sh. Ram Das Vishwakarma,  
Ticket No. 642, Fitter  
& 17 ors.

..Applicants

(By Advocate: Shri R.K. Verma through his junior)

-versus-

1. Union of India through  
The Secretary,  
Ministry of Defence,  
New Delhi.
2. Director General, EME,  
E.M.E. Directorate,  
Army Headquarters,  
D.H.Q., New Delhi.
3. The Commandant,  
506, Army Base Workshop,  
Jabalpur.
4. The District Employment Officer,  
Employment Exchange, Napier Town,  
Jabalpur (MP).

..Respondents

(By Advocate: Shri P. Shankaran)

O R D E R

By Madan Mohan, Member (J)

By filing this original Application, the applicants have claimed the following main reliefs:

- "i) an order/direction may kindly be issued to the respondents to produce the entire records relating to recruitment of the petitioners on the post of Fitters, Turners and Machinists in pursuant to the advertisement issued in the year 1984-85 and 1987-88 over which the names of the petitioners were sponsored by the Employment Exchange, Jabalpur. The records will definitely resolve the controversy in between the petitioners and the respondents.
- ii) That a direction/order may also be issued to the respondents to treat the petitioners appointed on the post of Fitters, Turners and Machinists from the date of their initial appointments as shown in the documents filed with this petition with a specific direction to pay the pay-scales of such posts from the date of their initial appointment until date with all consequential benefits of seniority etc."

2. The brief facts of the case are the applicants are posted in 506 Army Base Workshop, Jabalpur as Fitters, Turners and Machinists respectively. The grievance of the applicants is that in the year 1984-85, a decision was taken by the E.M.E. Workshop for the purpose of appointment of Fitters, Turners and Machinists sometimes in the year 1984-85 and 1987-88 respectively. The names from the Employment Exchange for the appointment of such posts were sponsored and thereafter the trade tests were taken by the Department for appointment to the post of Fitters, Turners and Machinists in the pay scale of Rs. 260-400 whereas the appointments were made on the inferior posts of Fitter Mate, Turner Mate and Machinist Mate in the pay scale of Rs. 210-290/-. These pay scales have now been revised.

2.1 The applicants being the job seekers accepted the said appointment. However, they made a number of representations to the Department and ultimately the matter was referred to J.C.M. Meeting held in the year 1995. The specific agenda was placed for consideration before the meeting as to why the appointment on inferior posts and pay scale was given whereas the recruitment was to be done on the superior post carrying higher pay scales. No decision on the said agenda has ever been taken. The applicants represented the matter to the Department by sending the legal notice dated 6.1.2000 reiterating their grievances. The Department gave reply to the said notice on 16.2.2000 without assigning any cogent reasons. From the perusal of the documents filed by the applicants, it will become clear that the Department has relaxed the qualification of skilled grade on so many occasions and the appointments were made on the essential qualifications and the desirable qualification of experience of two years was relaxed. The action of the respondents is arbitrary, unjust and illegal. By doing this exercise, they have not only done injustice with the applicants but also with the persons who were eligible to be appointed to the posts of Fitter Mate, Turner Mate and Machinist Mate and who could apply for their appointments. The Hon'ble Tribunal has come across in more or less similar situation in OA No. 166/91 in case

of M.E.S. employees wherein the appointments were given to the lesser pay scales whereas the recruitment was to be done on higher pay-scales, therefore, this Hon'ble Tribunal has held that the apparent injustice has been done and accordingly directed the respondents to provide the actual pay scales against which the appointments were made.

3. Heard the learned counsel for both the parties and perused the pleadings and other material available on record.

4. It is argued on behalf of the applicant that since the applicants were job seekers, they accepted the lower posts under compulsion but infact the recruitment was done for appointment to the higher posts carrying higher pay scales. It is further argued that the Hon'ble Tribunal has already decide OA No. 166/91 involving the identical issue and controversy as involved in the present case, directing the respondents to grant the applicants the claimed pay scale to all those skilled persons who had been recruited to the skilled grade bearing pay scale of Rs. 950-1500/- which is the prescribed pay scale from the date they joined the service. The respondents shall fix their pay scale accordingly and disburse to the applicants 2 to 8 and similar other members of the semi-skilled the monetary benefits within a period of six months from the date of receipt of a copy of the order. Hence, the order of the Tribunal passed in OA No. 166/91 is in all fours applicable to the present case.

5. In reply, the learned counsel for the respondents argued that the present hopelessly barred by limitation and does not deserve to be considered on this ground alone. He further argued that the facts of OA No. 166/91 decided by this Tribunal on 21.5.1999 are not similar to the present O.A. as the grievance of the applicants therein was that they were recruited in the year 1988 pursuant to the requisition issued in November, 1987 for the skilled grade i.e. Rs. 950-1500/- but they were given the pay scale of Rs. 800-1150/-. It is further argued that the persons

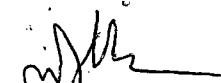
recruited in accordance with the recruitment rules in the pay scale of Rs. 950-1500/- cannot be given less grade of Rs.800-1150/-. Hence, the O.A. No. 166/91 was allowed but the same does not have any bearing to the facts of the present case, as in the present case the applicants were appointed to the inferior posts of Fitter Mate, Turner Mate and Machinist Mate in the pay scale of Rs. 210-290/- and not on the higher post of Fitters, Turners and Machinists in the pay scale of Rs. 260-400/-. Moreover, the applicants had accepted the said appointment. Therefore, they cannot now ask for the higher pay scales.

6. After hearing the learned counsel for both the parties and perusal of the record, we condone the delay in filing the original application in the interest of justice. We have also gone through the order passed by this Tribunal in OA No. 166 of 1991 and found that the applicants therein were recruited in the pay scale of Rs. 950-1500/- but they were given the pay scale of Rs. 800-1150/- while in the present O.A. the applicants were appointed on the inferior posts of Fitter,Mate, Turner Mate and Machinist Mate in the pay scale of Rs. 210-290/- and the same scale of pay was accepted by them. The said fact is not indispute. Hence, the facts of the OA No. 166/91 are totally different to that of the present O.A. It is the well settled legal position that Tribunal cannot fix the pay scales. Moreover, once the applicants have accepted the inferior posts of Fitter Mate, Turner Mate and Machinist Mate carrying the lower pay scales of Rs. 210-290, they cannot at this stage ask for the higher pay scales.

7. In view of the above discussion, we find that the O.A. is befeft of merit and deserves to be dismissed which is accordingly dismissed. No costs.

  
(Madan Mohan)  
Member (J)

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(M.P.Singh)  
Vice Chairman