

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 646 of 1995

Indore, this the 26th day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

S.C Verma, S/o K.L.Verma, aged
About 52 years, Examiner(Scale
Grade-II), MID Selection, GCF
Factory, Jabalpur, r/o GCF
Estate Qr.No.291/9, Vaidyanath
Nagar, GCF Estate, Jabalpur, M.P.

Applicant

(Applicant in Person)

VERSUS

1. Union of India, through the
Secretary, Ministry of Defence,
New Delhi.
2. Director General of Quality Insurance,
Department of Defence (Production and Supplies)
Govt. of India, Ministry of Defence,
New Delhi.
3. General Manager, G.C.F. Factory
Jabalpur, District Jabalpur, M.P.
4. Controller, CQA(W) Jabalpur,
District Jabalpur, M.P.
5. The SQA(E) G.C.Fy.P.O.-
Jabalpur.

Respondents

(By Advocate – Shri P.Shankaran with Shri Harshit Patel)

ORDER

By M.P. Singh, Vice Chairman –

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

“..... respondents be directed to consider the case of the petitioner for fixation of pay scale for which he is entitled as

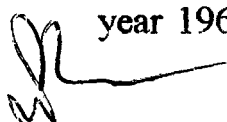
already shown in the petitioner, in accordance with Annexure – (sic) The respondents also be directed to pay him pay-scale according to provisions of law for which he is entitled. They also be directed to pay all arrears due to him with interest. Respondents also be directed to pay him all service benefits with retrospective effect.

2. This Original Application was earlier dismissed by this Tribunal vide order dated 18.3.2002 for want of jurisdiction as well as on limitation. The applicant had challenged the order of the Tribunal dated 18.3.2002 before the Hon'ble High Court of Madhya Pradesh in Writ Petition No.5129/2002. The Hon'ble High Court of Madhya Pradesh vide order dated 14.12.2004 has remitted the case to the Tribunal with the following observations:

“The question that really requires to be adjudicated is whether an incumbent is entitled to pay revision, though there has been delay and laches. The benefit shall be curtailed but it cannot be thrown over board on the ground of delay and laches and limitation.”

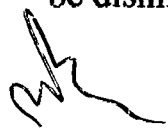
3. After this O.A. was received from the Hon'ble High Court, this case was listed for hearing on 28.3.2005. As the counsel for the applicant was not present on 28.3.2005, the case was adjourned for hearing on 30.3.2005 at the request of the applicant. When the case ~~was~~ came up for hearing on 30.3.2005, the applicant had requested for pass over as his advocate was not present in the court and the case was pass~~ed~~ over. When the case was called at the time of the revision of the list, the applicant had made a submission for granting him permission to submit the written submission. The applicant has accordingly submitted his written submissions on 31.3.2005 which have been taken into consideration by us.

4. The brief facts of the case are that the applicant was appointed as Tailor-C in 2 EME Centre, Allahabad in the year 1963 and subsequently transferred to Jabalpur in the year 1965. He was working in 1 STC, 2 TTR, Jabalpur as Tailor© and was declared surplus in the year 1967 because of reduction in the strength of the establishment.



He was, however, given an alternative employment as Mazdoor which was accepted by him and he gave his willingness for accepting the post of Mazdoor. Accordingly, he was appointed as Mazdoor under the respondents in the pay scale of Rs.70-85. Before he was redeployed, he was drawing the pay of Rs.93/- per month in the pay scale of Rs.85-128 as Tailor-C. However, on his appointment as Mazdoor in the pay scale of Rs.70-85, his pay was fixed at Rs.85/- per month i.e. at the maximum of the pay scale of Mazdoor w.e.f. 21.11.1967. The grievance of the applicant is that the last pay drawn by him as Tailor-C has not been protected by the respondents and instead he was appointed in the lower pay scale of Mazdoor.

5. According to the respondents since the applicant had accepted the lower post of Mazdoor in the pay scale of Rs.70-85, his pay was fixed at Rs.85/- per month i.e. at the maximum of the pay scale of Mazdoor w.e.f. 21.11.1967 in terms of Paragraph 2© of the Ministry of Defence OM dated 16th May, 1960 published in Appendix A to CPRO 69/60 (Annexure-R-4) as applicable for such surplus employees. The applicant was, however, granted Re 1 per month as stagnation increment i.e. Rs.85/- plus Re 1 per month as he has been stagnating at the maximum of the pay scale in terms of Ministry of Defence OM dated 10.7.1970, published in Appendix A to CPRO 99/70 (Annexure-R-5). According to the respondents, the fixation of the pay of the applicant was done correctly and, therefore, the question of granting him higher pay scale does not arise. According to them there exists no provision for higher pay fixation. They have further submitted that the applicant has not mentioned any specific authority or rule or order under which he is entitled for the higher pay scale. As no discrimination of any kind has been made while fixing the pay of the applicant, this present Original Application is liable to be dismissed.



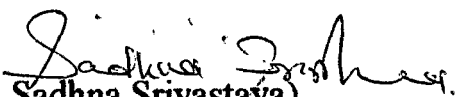
6. We have given careful consideration to the arguments advanced on behalf of both the sides. We find that the applicant who was declared surplus while holding the post of Tailor-C had given his willingness on 20.11.1967 (Annexure-R-II) which is reproduced as under:-

“No TRL-9 Tailor SAROJ CHAND VERMA do hereby certify that I am willing to proceed on permanent posting to Inspte of Armts & Gauges JABALPUR as a MAZDOOR. All particulars regarding my new unit have been explained to me”.

The applicant was therefore redeployed as Mazdoor in the pay scale of Rs.70-85. We also find from para 2(c) of Annexure-R-IV that in case where the alternative employment is in a lower post/grade and the quasi-permanent pay exceeds the maximum pay of such lower post/grade, pay will be limited to the maximum of the scale of the lower post/grade and no personal pay should be allowed over and above such maximum. In view this provision, the applicant was not entitled for fixation of pay of Rs.93/-of the post of Tailor-C in the pay scale of Rs.85-128 as the maximum of the scale of the post of Mazdoor was Rs.85/-, which he was granted by the respondents on his redeployment.

7. In view of the facts, mentioned above, we do not find any ground to interfere with the fixation of pay done by the respondents in respect of the applicant at the time of his redeployment in the year 1967. Therefore, the relief claimed by the applicant in this Original Application is not admissible to him.

8. In the result, the O.A. is dismissed being devoid of merit without any order as to costs.


(Ms. Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman