

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A.No.158 of 1994

Date of decision 19.10.1995

Shri N.M. Paul and 16 others

PETITIONER(S)

Shri H. Rashid

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Shri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No.*
4. Whether the Judgement is to be circulated to the other Benches? *No*

Judgement delivered by Hon'ble Vice-Chairman

M.G. Chaudhary

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.158 of 1994

Date of decision: This the 19th day of October 1995

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative)

Shri Nripendra Mohan Paul and 16 others,
Working as Tailors in Ordnance Branch,
222 Army Post Office C/O 99.

.....Applicants

By Advocate Shri H. Rashid

- versus -

1. Union of India through Secretary of Defence,
Government of India, Ordnance Branch,
New Delhi.
2. The Director General of Ordnance (Service OS-8C),
Master General of Ordnance Branch,
Army Headquarters, New Delhi.
3. Master General,
Headquarter Eastern Command, Ordnance Branch,
Fort William, Calcutta.
4. Commandant,
Advanced Base Ordnance Branch,
222 Army Post Office C/o 99.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

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CHAUDHARI.J. V.C.

The 17 applicants are employees working under the Ministry of Defence, Government of India, posted under the Commandant Advanced Base Ordnance Branch, 222 Army Post Office C/o 99 and are posted in the North Eastern Region. All these applicants appear to be attached to Tailor's job and belong to Tailor trade and carry out tailoring job for the Ordnance Branch. It appears that they are presently placed in the scale of pay of Rs.210-290 which is the position existing since prior to the Third Central Pay Commission. The applicants

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contend that having regard to the nature of their job they ought to be included in the category of skilled workers, but that despite their repeated representations their claim is being neglected by the respondents. The scale of skilled grade in the three trade structure on the basis of the recommendations of the Anomalies Committee vide letter of the Government of India, Ministry of Defence No.3817/DS/OSM/Civ.1/84 dated 15.10.1984 appears to be Rs.260-40065%.

2. It is averred by the applicants that at all times the Anomalies Committee has neglected to consider the Tailors as skilled workers although they have been representing from time to time. They further aver that the tailoring job is very important and an indispensable job in the Ordnance Department and it involves skill equal to other categories of workers who have been classified as skilled, namely, Painter, Cobbler, Carpenter, Book binder, Leather, Water Fitter, Brick layer, Moulder Grade "C", Boot repairer, Mason, Polisher etc. in different branches of Air Force, Navy, Army, yet they are not being recognised as skilled workers. They are not included in the three grade structure as yet. They had sent a representation to the Director General of Ordnance Services, Army Headquarter, New Delhi on 21.4.1992 pointing out that their's was an important grade and they were being deprived the benefit of three trade structure and have not been given any financial benefit prior to Fourth Pay Commission although their job is a hard job relating to day by day production of tailors job and it is a difficult type of work. It was further pointed out that prior to Third Pay Commission all trades of AOC were considered equal in the pay scale of Rs.210-290 and that although other categories were placed in higher pay scale after the Third Pay Commission Report the category of Tailors trade was continued as unskilled category and thus great injustice was done to them and they were suffering great financial loss. They requested Army Headquarters to include the Tailor trade in the skilled category and to give them the benefit of pay scale accordingly. Again on 5.7.1994 applicant

No.1, N.M. Paul, sent a representation to the Director General of Ordnance Services again pointing out that the Tailor trade was not included in the three trade structure by the Expert Classification Committee although the job of the applicants was a skilled job and they were not being given revised pay scales and necessary action may, therefore, be taken. No reply was received to these representations and no action was taken consistently with the prayers. Hence the applicants have approached the Tribunal by the instant O.A. on 11.8.1994. They pray that the respondents be directed to treat the Tailors job as skilled job, that the applicants be directed to be included in the three trade structure and that they may be allowed to draw skilled group grade scale prescribed for skilled job together with the other benefits and DA relief with effect from 9.11.1984.

3. The grievance of the applicants is that their claim is not being considered and they have ^{been} being neglected all throughout. Although they have rendered service for nearly 30 years in the Ordnance Branch they are denied legitimate compensation and salary for the work they are doing. This injustice which is being perpetrated should be removed. We find that the grievance is genuine and needs to be removed.

4. The written statement submitted by the respondents is not sufficient to answer the grievance of the applicants. The written statement is declared by the officiating Administrative Officer for the Commandant. All that is stated is that although Industrial Personnel belonging to the same categories of job were placed in the semi-skilled trades and further graded to skilled trade the Tailor trade was not considered as semi-skilled or skilled by the Ministry of Defence vide letter dated 15.10.1984. At the same time it is stated that as per recommendations of the Anomalies Committee as mentioned in Government of India, Ministry of Defence, letter dated 28.1.1986 13 categories of workers (as mentioned) were considered for promotion

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as skilled/semi skilled. That indicates that possibly after the report of the Fourth Pay Commission some anomaly had arisen and the matter was referred to the Anomalies Committee and it had recommended the 13 categories to be classified as skilled/semi skilled. We find in the list of those categories the following two entries:

(vii) Tailor Ord Grade

(viii) Tailor Mate

That should mean that the Tailor trade has already been recommended eligible for promotion as skilled/semi-skilled categories. That, however, has never been given effect to and that precisely is the grievance of the applicant.

5. What baffles us is the statement made further on in the same paragraph of the written statement. It is stated thus:

"The Anomalies Committee has not so far considered Tailor category as well as other categories of Industrial as well as Non Industrial personnel thus the Head of the Department cannot take any step to promote such personnel. The power has not(should be now) only been vested to anomalies committee."

A reference is made to the judgment in the case of Telecom Factory Jabalpur -vs- Union of India, CAT Jabalpur Bench Decision of 1990 (CAT Journal). Frankly speaking, we are totally unable to understand this part of the written statement. It is difficult to understand as to how the Anomalies Committee can remain in animated suspension and whether it has continued to exist. It is also not clear as to why the Anomalies Committee is required to decide the question because it is not shown that any anomaly had arisen. It is also not stated as to why the question has not so far been resolved and as to why it has not been asked to do so. The reference given to the decision of the Jabalpur Bench is not sufficient to locate the said decision. No copy thereof has also been produced. It is also not explained as to how the recommendation of the Anomalies Committee relating to Tailor ordinary grade and Tailor Mate still leaves the question ^{open} of non-consideration of the Tailor trade by the Committee. The written statement only tries to protect respondent No.4 by stating that he

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as the head of the department is unable to take any steps in the absence of any recommendation of the Anomalies Committee. It is not shown as to why the Director General of Ordnance or the Army Headquarters or the Ministry has not taken any decision on the point. Moreover, the written statement speaks of promotion as skilled/semi-skilled workers. The applicants, however, have claimed only the categorisation as skilled workers and scale payable to them.

Perhaps that is being construed as promotion by the respondent No.4.

6. Neither party has enlightened us about the pay being paid to the applicants as at present nor they have furnished any information as to the position after the report of the Fourth Pay Commission. Thus on the existing material as is placed before us and finding some difficulty owing to paucity of relevant material we have no choice but to decide the claim of the applicants on the basis of the existing material.

7. The applicants have averred in paragraph 1 of the application that their job is a skilled job. They have stated thus:

"The Tailor job is very important and indispensable job in the Ordnance Department (Branch) in the Defence Department. The intelligentsia required is no less than painter, cobbler, carpenter, Book-binder, leather, water, fitter, brick layer, Moulder grade "C", Boot repair, mason, polisher etc. indifferent branches of Air Force, Navy, Army, department, which should be recognised as skilled job and as such should be included them under the skilled group grade."

As noted earlier in the representation dated 21.4.1992 they have stated that the Tailor job is one of the most important trades and Ordnance service. There is no denial of this assertion of the applicants nor it is the case of the respondents that the job of the Tailors cannot be considered as skilled job having regard to the nature of the work performed by them in comparison with the work carried out by other trades who have already been categorised as either skilled or semi-skilled. The written statement shows that following

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trades have *so* categorised:

- i) Packer Ord Grade
- ii) Packer Mate
- iii) Tentmender Ord Grade
- iv) Tentmender Mate
- v) Ropeworker Ord Grade
- vi) Ropeworker Mate
- vii) Tailor Ord Grade
- viii) Tailor Mate
- ix) Chuckler Ord Grade
- x) Chuckler Mate
- xi) Lister Driver
- xii) Sawyer Ord Grade
- xiii) Sawyer Mate

The nature of the work performed by Tentmender and Ropeworker cannot be *as* involving more skill than required in the tailoring job. We are not, therefore, convinced that on any rational ground the applicants could be treated as unskilled workers. It appears that their category has remained to *be* considered owing to sheer neglect on the part of the authorities concerned.

8. The particulars given by the applicants show that one of the applicants joined the service in 1962, 5 applicants joined the service in 1963, one applicant joined the service in 1964, 2 applicants joined in 1965, 5 applicants joined in 1966, one applicant joined in 1967 and only applicant No.1 had joined service in 1976. The applicants have thus put in *considerable* ~~suitable~~ length of service and it is obvious that their services were found satisfactory as they have been continued in the job. Necessarily they have also gained experience in the work required in the Ordnance Department. That strengthens their case for treating them as eligible for skilled grade. In the absence of any material being shown that the scale was revised and enhanced after the Fourth Pay Commission we can only go by the statement contained in the representation of the applicants dated 21.4.1992

[Signature] indicating.....

indicating that their pay scale was Rs.210-290 and the skilled grade prescribed under the three grade structure was Rs.260-400. Assuming that these grades had been revised, with the length of service and the nature of work which the applicants are performing continuing to pay them for their services in the old scale of Rs.210-290 (at the rate of corresponding increase, if at all there has been any increase) appears to us to be grossly unfair having regard to the overall pay structure of Government employees in various departments. In our view the applicants deserve to be included in the category of skilled grade under the three grade structure without further delay as no action has been taken on their representations dated 21.4.1992 and 5.7.1994.

10. A copy of the letter of the Government of India, Ministry of Defence, addressed to the Chief of Army Staff etc. on the subject of fitment of Industrial workers in pay scales recommended by the Third Pay Commission bearing No.17(5)/89-D(Civ-I) dated 19.3.1993 has been brought to our notice. After referring to Government letter dated 15.10.1984 and the decision of the Supreme Court in WP 12259-66/1984 it contains the decision of the President of India to the effect that all the trades which had been granted the "skilled" grade from semi-skilled grade with effect from 15.10.1984 will now be given the benefit of the pay scale of skilled grade (Rs.260-400) with effect from 16.10.1981 subject to the other conditions mentioned in the letter dated 15.10.1984. It also provides that arrears of pay and allowances will be admissible to the employees concerned including those who were in service during the relevant period, but are no longer in service owing to retirement, resignation, death etc. In our opinion the applicants should also be given the benefit of this decision.

11. Bringing the applicants into the skilled category so as to make them eligible for skilled grade involves upgradation. From the aforesaid letter it is seen that sanction of the President is required

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for the upgradation and consultation with the Ministries of Finance and Defence is also necessary to make the payment of arrears permissible.

Because of these requirements it will not be open to us to make an order of upgradation or payment of higher grade arrears straightaway.

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We would ~~only~~ ^{wish} add that the respondents ~~should~~ take the necessary steps to comply with the formalities so as to extend the benefit to the applicants without loss of further time.

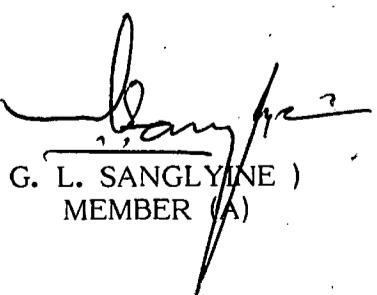
12. In the result following order is passed:

i) We direct the respondents to take effective steps for obtaining the sanction of the President and concurrence of the concerned Ministries of the Government of India to declare the applicants in the Tailor grade as "skilled workers" and to grant them thereafter subject to the sanction, the skilled grade with effect from 9.11.1984 as prayed by them on the conditions contained in the Government letter dated 15.10.1984 as modified by the decision of the Government of India contained in the letter dated 19.3.1993.

ii) We direct the respondents to carry out the aforesaid exercise within a period of three months from the date of communication of this order and thereafter subject to the decision taken, to pay the arrears of pay and allowances to the respective applicants as may be found payable as a result of granting antedated skilled grade scale in accordance with the aforesaid guidelines, within a period of two months thereafter.

13. The original application is partly allowed in terms of the above order.

14. Copy of the order should be forwarded to all the respondents separately. A copy also be furnished to Mr S. Ali, Sr. C.G.S.C.


(G. L. SANGLYNE)
MEMBER (A)


(M. G. CHAUDHARI)
VICE-CHAIRMAN