

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA 2006/2014
MA 1760/2014

New Delhi this the 2nd day of November, 2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)**

Smt. Sharda (T.No. 207 Tailor)
Aged about 46 years W/o Shri Ram Kishan
D/o Shri Phool Chand presently serving
As Tailor (Industrial) in now placed in
Gp 'C' (Highly skilled Category of Defence
Civilian Grade in COD Delhi Cantt. In
ESG Section under MGO's Branch AHQ
R/o 295, Vishal Market Tagore Garden
New Delhi-27

(Through Shri V.P.S. Tyagi, Advocate)

Versus

1. The Union of India (Through Secretary)
Ministry of Defence
South Block, New Delhi-110001
2. The Director General of Ordnance Services
Master General of Ordnance Branch AHQ,
Integrated HQs of MOD (Army),
New Delhi-110011
3. The Principal Controller of Defence Accounts
(Western Command)
Chandigarh (U.T.)
4. The Area Accounts Office (Pay)
Delhi Cantt-110010
5. The Commandant
Central Ordnance Depot (COD)
Delhi Cantt.-110010

... Respondents

(Through Shri Ashish Nischal, Advocate)

ORDER (ORAL)

Justice Syed Rafat Alam, Chairman

The applicant joined as a Labour with effect from 18.08.1988 in the pay scale of Rs.750-940, which was replaced by the pay scale of Rs.2550-3200 in 1997 Pay Revision. After completion of 12 years of service, she was granted the benefit of Assured Career Progression (ACP) and her pay was fixed at Rs.2975/- with effect from 18.08.2000 in the pay scale of Rs.2650-4000. She then passed a trade test and after approval by the DPC, was promoted as Tailor with effect from 1.09.2006 and granted the pay scale of Rs.3050-4590 which was for skilled category whereas Tailor was in semi-skilled category. That as per SRO 38 dated 19.12.2009 of the respondents, the post of Tailor has been categorized as 'skilled' with effect from 19.12.2009 and granted Pay Band scale of Rs.5200-20200 with Grade Pay of Rs.1900/-. The respondents have issued show cause dated 4.07.2013 to reduce his pay scale and recover excess amount.

2. According to the applicant, the Hon'ble High Court of Delhi in its judgment in **Smt. Bhagwati Vs. UOI and others**, W.P. (C) No.1425/2007, in the matter of Tailor, has settled the issue and held that Tailors are 'skilled' workers. The basic issue which the Hon'ble High Court has settled is that such matters are not strictly of equal pay for equal work but relate to categorization of a trade with reference to the skill of the person

engaged in the trade. In this background, the applicant has prayed for the following reliefs:

"(a) set aside the contention of the Respondent No.4 as put forth in the impugned **Communication dt. 10.5.2014 Annexed as Annexure (A-).**

(b) Up-hold the fixation of the Applicant's pay in the skilled grade by way of (PB-1) scale Rs.5200-20200 plus Grade **Pay Rs.1900/-** initially granted being in accordance with the Judicial **Pronouncement** and **Govt.** **Instructions** and therefore no recovery could be justifiably made.

(c) Direct also the Respondents to accord the Grade of Rs.2400/- as set out in **SRO – 38 which made applicable by now in the circumstances of the fixation of the Applicant Pay in the highly skilled grade on subsequent grant of that grade by grant of promotion or ACP benefit etc. which would be as per law and pass any order or direction as deemed appropriate in the wake of the circumstances of the case** with award of cost in favour of applicant against the respondents."

3. The respondents took a decision that the post of Tailor has been categorized as 'skilled' only in 2009 and before that, they have to be treated as semi-skilled. Therefore, they cannot be granted pay scale of Rs.3050-4590 (pay scale of skilled grade). This is so expressed in reply to the legal notice dated 10.05.2014, relevant portion of which is reproduced below:

"In this connection, it is submitted that the Show Cause Notice served to T/no. 207 Tailor Smt. Sharda is very much in order. As per Min. of Defence letter No.1(2)/80/DECC dated 11 May, the rule is applicable to Ind workers in AOC in the pay scale recommended by 3rd Central Pay Commission. As per MoD letter dt. 11 May 1983, semi skilled Ind workers in AOC were recommended pay scale of Rs.210-290 vide Annexure-4 S/No. 43 & the said Tailor post would carry the pay scale of Rs.210-290. As per SRO 38 dt 18 Dec 2009 the post of Tailor has been categorized as **SKILLED** & granted pay scale of Rs.5200-20200 with Grade Pay of Rs.1900/- which entails that before 18 Dec 09 the Tailor post was categorized as semi skilled, whereas Indl had been granted a pay scale of Rs.3050-4590 wef 01 Sep 2006 which is for skilled instead of pay scale of Rs.2650-4000.

In reply to Para 2, it is submitted that there are two Govt. of India letter No.1(2)/80/D/ECC/IC dt 11 May 1983 for fitment of Industrial workers in the pay scale. One of them is applicable to those indls who are working under the establishment of AOC and another is applicable to those who are working in EME. Smt. Sharda is working under AOC therefore she is not entitled for skilled grade in the pay scale of Rs.260-400 before 18 Dec 09."

4. The respondents' case is primarily what is stated in reply to the legal notice.

5. We find the arguments of the respondents to be completely unreasonable that the applicant is semi-skilled before 2009 and skilled after 2009. Bhagwati (supra) clearly has

categorized Tailors as 'skilled'. A post is either skilled or semi-skilled or unskilled. Once it is categorised as skilled, it cannot change its category on different dates. Therefore, the Tailor's post has to be treated as skilled. As such, the scale of Rs.3050-4590 fixed by the respondents earlier was the correct scale, which was replaced by the pay scale of Rs.5200-20200 with Grade Pay of Rs.1900 and pay fixation done accordingly. Thus, obviously there is no question of recovery.

6. As regards upgradation under ACP/ MACP, the next higher scale is in PB-I in the pay grade of Rs.5200-20200 with Grade Pay of Rs.2400/-, to which the applicant would be entitled to in case she is found eligible for the same. In this regard, we also place reliance on our order in OA 1179/2013 decided on 6.10.2015 in the case of **Anil Kumar Vs. Union of India and others**. The OA is, therefore, allowed. The respondents are directed to act accordingly i.e. retain the skilled category scale of Rs.3050-4590 and ACP/MACP in Grade Pay of Rs.2400/- and pass orders accordingly within a period of three months of the receipt of a certified copy of this order. However, while the pay would be fixed on notional basis arrears would be paid from the date of filing of this OA i.e. 30.05.2014.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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