

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 3368/2013

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. Shakuntala T.No. 3796 Tailor
Aged about 57 years W/o Shri Brij Mohan
Presently serving as Tailor (Industrial) in
Erstwhile Gp `D' post of Defence Civilian
in COD Delhi Cantt. Under MGO's Branch
AHQ R/o RZ-136, Brahmpuri, Pankha Road,
Nangal Raya, New Delhi-46 ... Applicant

(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 HQrs of MOD (Army),
New Delhi-110011
3. The Principal Controller of Defence Accounts
(Western Command)
Chandigarh (U.T.)
4. The Commandant
Central Ordnance Depot (COD)
Delhi Cantt.-110010 ... Respondents

(Through Shri B.K. Berera, Advocate)

ORDER (ORAL)

Justice Syed Rafat Alam, Chairman

The applicant joined as a Labourer on 19.04.1975 on
compassionate appointment on demise of her mother in the pay

scale of Rs.196-3-220-EB-3-232. Having passed the trade test, she was granted *ad hoc* promotion to the post of Tailor. Her services were regularized in the skilled grade in the pay scale of Rs.950-1500 with effect from 1.05.1988. The applicant is presently serving as Tailor in the Highly Skilled Grade in the pay scale of Rs.5200-20200 with Grade Pay of Rs.2400/-. She is aggrieved by the Show Cause Notice dated 4.07.2013 whereby she has been asked to show cause why her promotion/pay should not be reduced with effect from 1.05.1987 as she was entitled to semi-skilled pay scale of Rs.800-15-1010-EB-20-1150 as per Ministry of Defence letter dated 11.05.1983 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 Tailors, 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 Show Cause Notice and reply notice annexed as **Annexure (A-) A-2).**

- (b) Up-hold the fixation of the Applicant's pay in the skilled grade of Rs.950-1500 initially granted being in accordance with the Judicial Pronouncement and Govt. Instructions and therefore no recovery could be justifiably made.
- (c) Direct that in the circumstances of the fixation of the Applicant Pay in the skilled grade and subsequent grant of Highly Skilled grade by grant of promotion or ACP benefit etc. which is 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.950-1500 which is meant for skilled category. This is expressed in reply to the legal notice dated 10.09.2013, relevant portion of which is reproduced below:

"1. In this connection, it is submitted that the Show Cause Notice served to the indl is very much in order. As per Min of Def letter dt. 11 May 1983 the subject letter is applicable to Industrial Workers in AOC in the pay scale recommended by the third pay commission. As per aforesaid letter semi-skilled industrial workers in AOC were recommended pay scale Rs.210-290. Vide Annexure - 1, S.No.43 and the said post would carry the pay scale Rs.210-290.

2. As per SRO 38 dt 18 Dec 2009 the post of Tailor has been categorized as 'skilled' and granted the

pay scale Rs.5200-20200 with Grade Pay Rs.1900/-, which entails that before 18 Dec 2009 the Tailor post was categorized as semi skilled, whereas indl granted pay scale of Rs.950-1500 wef 01/05/87 instead of pay scale Rs.800-1150.

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 categorized 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.950-1500 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.950-1500 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. 16.09.2013.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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