

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00362 of 2015

Date of Order: This, the 17th day of January 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER**

1. Shri Suren Chandra Das, Tailor
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
2. Shri Tarun Khanikar, Tailor Mate
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
3. Shri Nand Giri Sanyasi, Tailor
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
4. Smt. Ganga Maya Devi, Tailor
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
5. Smt. Sidheswari Borah, Tailor
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
6. Smt. Haithuri Bala Basumatary, Tailor Mate
222 ABOD, Narengi
Army Post Office, C/O 99 APO.
7. Smt. Bimala Das, Tailor HS-II
222 ABOD, Narengi
Army Post Office, C/O 99 APO.

... Applicants.

By Advocates: Mr. M. Chanda & Ms. S. Begum

-Versus-

1. Union of India
Represented by the Secretary
To the Government of India
Ministry of Defence, Ordnance Branch
New Delhi – 110011.
2. The Director General of Ordnance (Service OS-8C)
Master General of Ordnance Branch
Army Headquarters, New Delhi – 110011.
3. The Master General
Headquarter Eastern Command
Ordnance Branch, Fort William
Kolkata – 908542.
4. The Commandant
Advanced Base Ordnance Branch
222 Army Post Office, C/O 99 APO.

... Respondents

By Advocate: Ms. G. Sutradhar, Addl. CGSC

O R D E R

N. NEIHSIAL, MEMBER (A):

In the present O.A. No. 040/00362 of 2015, the applicant has sought the following reliefs:

“8.(1)That the Hon’ble Tribunal be pleased to direct the respondents to review and refix the pay of the applicants in the appropriate scale of pay/grade pay as provided by the Govt. of India, Ministry of Defence in their letter dated 20.05.2003, 14.06.2010 and 14.03.2011 treating the trade of Tailor as Skilled category post, while effected their promotion/ financial up-

gradation on each occasion with a further direction to grant all consequential benefit on account of such refixation of pay in the higher scale/grade pay.

- 8.(2) That the Hon'ble Tribunal be pleased to declare that the applicant are entitled to refixation of pay either on account of promotion or on account of financial upgradation under the ACP/MACP scheme, treating the trade of Tailor as Skilled category post with all consequential benefit including arrear monetary benefits.
- 8.(3) That the Hon'ble Tribunal be pleased to direct the respondents to ignore the promotion earned/ upgradation granted under the ACP scheme in the past to those grades, which now carries the same grade pay due to merger of pay scales/upgradation of post recommended by the 6th Pay Commission, while refixing the pay of the individual applicant in the light of the prayer No. 1 and 2.
- 8.(4) Costs of the application.
- 8.(5) Any other relief (s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper."

2. Learned counsel for the applicants submitted that the applicants were initially appointed as Mazdoor under 222 ABOD, C/O 99 APO in different dates in the year 1981, 1982, 1983 and the applicant Nos. 6 and 7 in the year 1996 and 1992 respectively. Thereafter, they have duly been promoted to their respective positions on different dates as Tailor, Tailor Mate, Tailor HS-II etc. But their pay fixation has not been done in the appropriate scale of pay either on account of their promotion to the next higher grade or on account of grant of benefit of ACP/MACP. The details particulars of appointment of the applicants have been furnished as below:

Name of the Applicants	Date of appointment	Designation	Present grade pay
Shri Suren Chandra Das	31.10.1981	Tailor	2400(5,200-20,200)
Shri Tarun Khanikar	01.11.1983	Tailor Mate	2400(5,200-20,200)
Shri Nand Giri Sanyasi	20.08.1981	Tailor	2400(5,200-20,200)
Smt. Ganga Maya Devi	30.01.1981	Tailor	2400(5,200-20,200)
Smt. Sidheswari Borah	27.02.1982	Tailor	2400(5,200-20,200)
Smt. Haithuri Bala Basumatary	23.02.1996	Tailor Mate	1900(5,200-20,200)
Smt. Bimala Das	08.10.1992	Tailor HS - II	2400(5,200-20,200)

3. Subsequently, vide DO Part-I No. 531/Civ est dated 20.07.2010, promotion has been granted to some of the applicants including the present applicants. The details of the promotion of the applicants granted vide order dated 20.07.2010 are furnished hereunder:

- i. Shri Suren Chandra Das, promoted from Tailor to Tailor SG, again by the same order he was further promoted from Tailor SG to Tailor HS Grade.
- ii. Shri Tarun Khanikar, Mazdoor to tailor Mate.
- iii. Shri Nand Giri Sanyasi, promoted from Tailor to tailor SG.
- iv. Shri Ganga Maya Devi, promoted from Tailor to tailor SG.
- v. Smt. Sidheswari Borah, promoted from Tailor to tailor SG.
- vi. Smt. Haithuri Bala Basumatary, promoted from Tailor Mate to Tailor SG.
- vii. Smt. Bimala Das, promoted from Tailor to Tailor SG again by the same order she was further promoted from Tailor to Tailor HS Grade.

4. The learned counsel further submitted that no scale or grade pay has been indicated in the promotion order dated

20.07.2010 for the reason best known to the authority. It appears that as many as two applicants namely Suren Ch. Das and Smti Bimala Das have been granted two promotions by the same order dated 20.07.2010, but except applicant no. 6, all the applicants have been placed in the common grade pay of Rs. 2400/- in the pay band-I of Rs. 5,200-20,200/- irrespective of their promotion to the higher grade. As such it appears that the applicant has not been placed in the appropriate scale and grade pay and no fixation benefit has been granted in the appropriate promotional scale on their promotion. It appears that promotion granted to the applicants is merely a paper promotion without effecting scale and pay. As such respondents are duty bound to disclose the appropriate scale and grade pay due and admissible to the individual applicants on account of their promotion effected vide order dated 20.07.2010. Respondents are also duty bound to disclose, as to whether any benefit either on account of 1st or 2nd ACP or on account of 1st 2nd or 3rd MACP, has been granted or not to the present applicants, if the benefit of ACP and MACP has been granted to the individual applicants, the same should be produced with supporting documents and records along with the record of fixation benefit carried out in respect of individual applicants on each occasion of their promotion as well as on each occasion of their financial upgradation in terms of ACP and MACP

Scheme issued by the Govt. of India vide OM dated 09.08.1999 as well as OM dated 19.05.2009.

5. The learned counsel also highlighted that one Shri Nipendra Mohan Paul & 16 others, had approached this Tribunal while working as Tailor through O.A. No. 158 of 1994 claiming that the trade of Tailor should be treated as Skilled Grade instead of unskilled grade and they should be given the benefit of higher pay scale attached to the post of skilled grade along with avenue of promotion in the respective hierarchy of the skilled grade. This Tribunal vide judgment and order dated 19.05.1999, it was directed and declared that the category of Tailor should be treated as skilled grade workers w.e.f. 19.11.1994 as per condition contained in the Govt. of India letter dated 15.10.1984 which was subsequently modified by the letter dated 19.03.1993 with a further direction that subject to aforesaid direction/decision those applicants should be granted benefit of pay and allowances with arrears, since the present applicants are similarly situated and working in 222 ABOD, under the Govt. of India, Ministry of Defence, as such they are also entitled to similar benefit, of appropriate higher scale of pay treating the applicants as Skilled Grade with further promotion as per hierarchy available for the skilled grade of the trade of Tailor. But it appears that the respondents have denied the benefit of skilled

grade to the present applicants as well as the benefit of promotional grade and scale of pay.

6. Further on a mere perusal of the promotion order dated 20.07.2010 issued by the respondents, wherein it is abundantly clear that applicant no. 6 has been granted promotion from Tailor Mate to Tailor Skilled Grade, whereas after the judgment and order dated 19.10.1995 in O.A. No. 158 of 1994, there is no scope on the part of the respondents, Union of India to treat Tailor Grade as unskilled category, therefore promotion of applicant no. 6 from the category of Tailor Mate to Tailor Skilled Grade is irregular, since there cannot be any post of Tailor as Mate Tailor in the unskilled category, rather promotion of all the applicants are liable to be effected in the respective grade and scale of pay as indicated in the Govt. of India, Ministry of Defence letter dated 20.05.2003, 10.06.2014 and Ministry of Defence letter dated 14.03.2011. As such, it appears that the respondents union of India did not carry out the restructuring as directed by the Ministry of Defence and also not extended the benefit of treating the Tailor Grade as Skilled grade with further promotional benefit provided under the Ministry of Defence letter dated 20.05.2003, 10.06.2014 as well as Ministry of Defence letter dated 14.03.2011, as a result all the applicants except applicant no. 6 have been wrongly placed in the grade pay of Rs. 2,400/- even

after effecting their promotion vide order dated 20.07.2010 as also evident from the pay slips of the individual applicant and thereby applicants have been arbitrarily denied the benefit of promotion, appropriate grade pay and scale of pay as well as fixation benefit on account of their promotion and also denied the actual benefit of ACP/MACP due and admissible to the applicants in the appropriate scale and grade pay, rather promotion of the applicants have been effected in the non-existence grades which is contrary to the Ministry of Defence, promotion Policy dated 20.05.2003, 10.06.2014 as well as Ministry of Defence letter dated 14.03.2011.

7. The learned counsel also pointed out that there is a large scale anomalies in the fixation of pay as evident from below:-

- i. Shri Suren Chandra Das, Tailor HS Grade. 3rd MACP about 34 years 31.10.1981
- ii. Shri Tarun Khanikar Tailor Mate. 2nd MACP about 32 years 01.11.1983
- iii. Shri Nand Giri Sanyasi, Tailor SG. 3rd MACP about 34 years 20.08.1981
- iv. Smt. Ganga Maya Devi, Tailor SG. 3rd MACP about 34 years 30.01.1981
- v. Smt. Sidheswari Borah, Tailor SG. 3rd MACP about 33 years 27.02.1982
- vi. Smt. Haithuri Bala Basumatary Tailor SG. 1st ACP/MACP about 19 years 23.02.1996
- vii. Smt. Bimala Das, Tailor HS Grade. 3rd MACP about 23 years 08.10.1992.

8. In response to the above points of grievance of the applicants, the respondent authorities by filing written statement stated at para 3 as below:-

"That the applicants No 1 to 5 were initially appointed/posted as Mazdoor in different dates on the year 1981, 1982 and 1983 and the applicant Nos 6 & 7 in the year 1996 and 1992 respectively in the pay scale of Rs. 196-3-22-EB-3-232 (Pre revised) Rs. 750-940 (Revised 4th CPC) and Rs. 2550-3200 (Revised 5th CPC) respectively. The applicants were promoted from Mazdoor to Tailor (Mate) and Tailor (Mate) to Tailor (Ordinary Group) on different dates in the pay scale of Rs.800-15-1010 EB 20-1150 and Rs. 2650-65-3300-70-4000 (Semi Skilled). The pay scales were merged with Pay Band - 1 i.e. (Rs. 5200-20200) with Grade Pay of Rs. 1800/- by the 6th Central Pay Commission and introduced MACP scheme by 6th CPC. On implementation of aCP/MACP scheme and merger of pay scales S-1 (Rs. 2550-3200) S-2 (Rs. 2610-3540) S.2-A (Rs. 2610-4000) S.3 (Rs. 2650-65-3300-70-4000) and S-4 (Rs. 2750-70-3800-75-4400) they were upgraded to pay scale Rs. 2650-4000/- on grant of 1st ACP. After 6th CPC both scale i.e. Rs. 2550-3200/- and Rs. 2650-4000/- were granted 2nd ACP in the pre revised scale Rs. 3050-4590/-. The upgradation under 1st ACP from pre revised scale Rs. 2550-3200/- to Rs. 2650-4000/- was ignored and the upgradation under 2nd ACP to pre revised 3050-4590/- was reckoned as 1st MACP by granting PB-1 along with grade pay Rs. 1900/-. Further the applicant were granted 2nd MACP and 3rd MACP in the PB-1 with grade pay Rs. 2000/- and grade pay of Rs. 2400/- respectively under MACP scheme the upgradation was allowed on grade pay hierarchy not on promotional hierarchy ignoring due to/ merger of pay scale of Rs. 2550-3200/- and Rs. 2650-4000/- is only applicable to MACP scheme for ACP scheme as per recommendation of the 6th CPC."

9. The respondents also stated at para 4 of their written statement as below:-

"That DO (Daily order) part 1 No 531/Civ. Est. dated 20 July 2010 is not a promotion order. The names of successfully candidates who appeared in the trade test held on 22 July 2010 and found qualified for promotion to charge men Gde II in various trades are as per Appx to this DO part-I. it was the

result of their trade test only and the same casualty was also published vide daily order (DO) part II No. 198/2010 dated 24 July 2010.

The copies of the Daily Order Part-I dated 20.07.2010 and Trade Test result (DO Pt-II) dated 24.07.2010 are annexed herewith and marked as Annexure-I and II respectively."

10. As regards to the para 4.5 of the applicants' O.A., the respondent authorities merely stated as below:

"That this depot is well committed towards correct implementation of the policies of Govt. and granting rightful placement/promotion to be affected individuals. Through the court case a number of Tailors have got the benefit of Skilled Pay Scale from the date of their initial appointment and now reached in the Pay Scale of (Rs. 5000-8000) through ACP based on the revised recruitment Rule for Tailors (SRO 38 of 2009 dated 18 December 2009) they have been elevated to the post of skilled. In the cases of Tailors to be processed as per their pay scale and grade pay fixed w.e.f. 01 January, 2006 (on implementation of court orders wherever applicable). The Tailor Trade come under skilled categories w.e.f April 2010 vide IHQ of MOD letter No. A/23731/RR-Tailor/ OS-8C (ii) dated 26 March 2010."

In addition, they also enclosed Annexure-IV containing the pay fixation and promotion of each of seven applicants. However, they did not specifically confirm whether these individuals have been correctly granted the status as 'Skilled Workers' along with correct pay scales and also whether financial upgradations have been given to them from time to time as per Govt. orders.

11. In the above context, it is observed that this Tribunal vide order dated 19.10.1995 in O.A. No. 158 of 1994 have issued certain direction here as under:-

“12(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 09.11.1984 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.”

12. From the reading of the above directives of this Tribunal, it is clear that the applicants shall not be entitled for the status of Skilled Workers w.e.f. 09.11.1984 as direction was merely to take effective steps for obtaining 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”. Since the relevant Govt. orders have been subsequent to this indicated date i.e. “09.11.1984”, any entitlement as Skilled Worker for

Tailor Category shall be effective only from the date of order of the Govt.

13. In this context, it also highlighted that consequence to the judgment by the Co-ordinate Bench of CAT, Ernakulam Bench in O.A. No. 09/2013 dated 12.08.2015, bifurcation of elsewhere Skilled Grade into Highly Skilled Grade-II and I shall not be the basis for denial of entitlement of ACP/MACP in accordance with the judgment passed by the Co-ordinate Bench of CAT, Ernakulam Bench in O.A. No. 9/2013 dated 12.08.2015.

14. Keeping in view of the above, it is felt that the respondent authorities have not been able to specifically demonstrate that these seven applicants have been given the correct status of being "Skilled Worker" as per the Govt. order with attendance scale and also financial benefits under ACP/MACP. In view of this, the respondent authorities are duty bound to review the entire case and demonstrate to each of the applicants that they have been given the benefits of upgradation/promotion from time to time as per Govt. order. We hereby direct the respondent authorities more particularly 222 ABOD, Narengi to review the entire case and issue a detail speaking order for each of the applicants among others indicating that each applicants has been given the benefit of

upgradation as "Skilled Workers" from the date the Govt. order along with relevant scales and also financial upgradations under ACP/MACP from time to time with a clear indication that bifurcation of Skilled Grade into Highly Skilled Grade II & I has been ignored for the purpose of ACP/MACP.

15. With the above directions, O.A. stands disposed of. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

PB