

7

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

R.A. NO.266/2004
in
O.A. NO.35/2003

This the 14th day of March, 2005

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Harinder Singh & Others

... Applicant

(By Shri Yogesh Sharma, Advocate)

Versus

Union of India & Others

... Respondents

(By Shri V.S.R.Krishna, Advocate)

ORDER (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

Through this application review of order dated 31.3.2004 whereby OA No.35/2003 was dismissed has been sought. The learned counsel of applicants contended that respondents had passed order dated 13.11.2002 and another order dated 16/17.10.2002 in view of the directions of this Tribunal contained in order dated 24.10.2002 made in CP No.385/2002 arising out of OA No.1239/2001, and the order dated 7.5.2002 in OA No.1239/2001, rejecting the contentions of applicants for grant of higher pay scale. The learned counsel maintained that while the Expert Classification Committee (ECC) had recommended higher grade, among others, for the category of applicants, which recommendations had been approved by the Cabinet, respondents had rejected applicant's claim for higher grade without considering the recommendations of the ECC as also the Cabinet's approval thereof. The learned counsel stated that the OA was dismissed without taking into consideration these facts, which is an apparent factual error.

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2. On the other hand, the learned counsel of respondents pointed out that this has been the fourth round of litigation resorted to by applicants. He stated that the contentions made on behalf of applicants were considered by the Tribunal in its order dated 31.3.2004 whereby OA No.35/2003 was dismissed. He submitted that there is no factual error on the face of the record in the Tribunal's orders and as such, this review application is liable to be dismissed.

3. It is observed in paragraph 5 of the Tribunal's order dated 31.3.2004 as follows:

"5. We have heard the learned counsel of both the parties and have perused the material on record. At the outset, it is clarified that the applicants were appointed as Fitters Grade 'C' therefore, they cannot be compared with the scale granted to Fitter Grade 'B'. It is also undisputed that the fixation of pay is to be done by the Expert Body like Pay Commission and not by the Courts/Tribunals. In the case of the applicants it has been pointed out by the respondents that their case has been considered not only by the ECC but also by the Departmental authorities and for the reasons recorded by the respondents, their claims have been rejected by them. In the order dated 17.10.2002 the Secretary, Department of Defence, Production and Supplies has observed that the job description given by the General Manager, Ordnance Factory, Dehradun is not only specific to that factory but also pertains to a later period, whereas the claim of the applicants for upgradation pertains to the year 1981. He has also considered the job description of the applicants vis-à-vis the other similarly situated employees after owing to the reasons given by the respondents in their impugned order dated 17.10.2002 as well as order dated 13.11.2002. We do not find any justification to direct the respondents to reconsider the claim as prayed by the applicants."

4. It is stated in the Tribunal's orders as extracted above that applicants' case had been considered by the ECC as well as the departmental authorities. In order dated 17.10.2002 the Secretary, Department of Defence Production and Supplies had observed that the job description given by the General Manager, Ordnance Factory, Dehradun is not only specific to that factory but also pertains to a later period, while the claim of applicants for upgradation pertains to the year


11

1981. The job descriptions of applicants vis-à-vis other similarly situated employees were also considered.


5. The learned counsel of applicants was called upon to show from the ECC report the recommendations made about applicants' post. He referred to Annexure A-5 in the OA, which is stated to be an extract of the ECC report. Paragraph 103 of the report deals with Instrument Mechanic/Instrument Repairer. The learned counsel could not indicate any part of the report dealing with the post of Fitter (Instrument). He stated that the posts of Instrument Mechanic/Instrument Repairer and the post of Fitter (Instrument) are the same. The contention made on behalf of applicants could not be established from the ECC report or any other document filed in the OA. The anomaly committee also did not recommend upgradation of the trade of Fitter (Instrument) to the skilled grade, i.e., Rs.260-400.

6. No apparent error having been established on behalf of applicants in the Tribunal's orders, the present application appears to be a mere attempt at re-arguing the case, which is impermissible in a review petition.

7. As a result, this review application is dismissed.


(Shanker Raju)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)
14.3.05