

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 35 OF 2003

New Delhi, this the 31<sup>st</sup> day of March, 2004

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER  
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Harminder Singh  
S/O Late Sh. Balwant Singh
2. Shiv Shanker  
S/O Late Sh. Basudev Singh
3. Sudhir Dobhal  
S/O Late Sh. Vidyadutt Dobhal
4. Puran Chand  
S/O Shri Mam Chand
5. S.B. Rai  
S/O Sh. C.B. Rai
6. N.K. Joshi  
S/O Shri S.R. Joshi
7. Shyam Sunder  
S/O Shri Avtar Chand
8. J.P. Singh  
S/O Late R.L. Singh
9. A.K. Das  
S/O Shri S.K. Das
10. Ram Dass  
S/O Shri Ram Pher
11. Sarvajeet Singh  
S/O Shri Ujagar Singh
12. Din Dayal Dandriyal  
S/O Late Sh. Ra.N. Dandriyal
13. S.B. Lama  
S/O late Shri J.S. Lama
14. Rati Ram Pal  
S/O Late Shri B.S. Pal
15. Gurvachan Singh  
S/O Shri Charan Singh
16. Manohar Lal  
S/O Late Sh. A. Narayan
17. P.K. Ahuja  
S/O Shri N.L. Ahuja
18. B.S. Thakur  
S/O Late Shri A. Narayan

*(Signature)*

19. O.B.Ale  
S/O Shri S.B.Ale
20. Pati Ram  
S/O Shri J.K.Ratauri
21. Raj Kumar  
S/O late Shri R.Lal
22. K.S.Wadhwa  
S/O Shri late Sh.R.S.Wadhwa
23. M.P.Kapoor  
S/O late Shri R.G.Kapoor
24. D.S.Rawat  
S/O late Shri S.S.Rawat
25. A.K.Thapa  
S/O Shri Bhagatbir Thapa
26. R.S.Bist  
S/O Shri D.S.Bist
27. Jagdish Prashad  
S/O Late Shri Hari Ram
28. Sunit Dutt  
S/O Shri Pitamber Dutt
29. A.K.Sharma  
S/O Shri P.C.Sharma
30. N.D.Sharma  
S/O Shri D.R.Sharma
31. Haminder Kumar  
S/O Shri D.K.Sastri
32. Darshan Singh  
S/O Late Shri D.Singh
33. Gyan Chand  
S/O Late Shri D.Chand
34. Sant Ram  
S/O Late Shri Ram Dayala
35. Prithivi Lal  
S/O Shri Raghubir
36. N.R.Pundir  
S/O Late Shri Sukh Lal
37. K.C.Joshi  
S/O Late Shri T.R.Joshi
38. V .K.Sharma  
S/O Shri S.P.Sharma
39. Om Prakash  
S/O late Shri Harish Chand

*Chandigarh*

(3)

40. Umesh Kumar  
S/O Shri Vasu Dev Prasad

41. A.K.Sapalok  
S/O Shri B.N.Sapalok

....Applicants

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India  
through  
the Secretary,  
Ministry of Defence,  
South Block,  
New Delhi.
2. The Secretary,  
Department of Defence Production and Supplies,  
Ministry of Defence,  
Govt. of India,  
New Delhi.
3. The Chairman & DGOF,  
Ordnance Factory Board,  
Kolkata.
4. The General Manager,  
Ordnance Factory,  
Dehradun

.....Respondents

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

ORDER

**SHRI R.K.UPADHYAYA, ADMINISTRATIVE MEMBER:**

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed by 41 applicants jointly claiming the following reliefs:

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 13.11.2002 and dated 16/17.10.2002 (Annexure.A/1 & A/2) declaring to the effect that the same is illegal, arbitrary and against the law.

(ii) That the Hon'ble Tribunal may further graciously be pleased to pass an order directing the respondents to upgrade the pay scale of the applicants to Rs.260-400 w.e.f. 16.10.81 with all consequential benefits including the arrears of difference of pay with interests.

*AmBapant*

(4)

(iii) Alternative relief: That the Hon'ble Tribunal may further graciously be pleased to pass an order directing the respondents to refer the case of the applicant to the Board of Arbitrator.

(iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants."

The impugned order dated 13.11.2002 (Annexure-A1) as well the order dated 16/17.10.2002 (Annexure-A2) have been passed in view of the directions issued by this Tribunal on 24.10.2002 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 the applicants for grant of higher pay scale. This Tribunal vide order dated 7.5.2002 in OA No.1239/2001 had directed the respondent No.1 i.e. Secretary, Ministry of Defence, Department of Defence Production & Supplies (DP & S), Govt. of India to reconsider the comments of the General Manager, Ordnance Factory, Dehradun and to dispose of the applicants' representation by means of a reasoned and speaking order. It was also directed by order dated 24.10.2002 in CP No..385/2002 arising out of OA No.1239/2001 to reconsider the Ministry of Defence's order dated 17.10.2002 and pass a fresh order in compliance of the order of Tribunal by undertaking a comparison of the trades of Fitter (Instrument) and Fitter (General).

2. The learned counsel of the applicants stated that this is third round of litigation. Earlier the applicants had filed OA No.1569/94 which was disposed of on 30.7.99 by this Tribunal. The respondents were given directions to dispose of the representations of the applicants. Since the representations were rejected, the applicants had filed OA No.1239/2001.

*AmB Ngun*

The learned counsel of the applicants stated that the entire facts have not been properly appreciated by the respondents. In this connection, attention has been invited to the recommendations of the Expert Classification Committee (ECC for short) by Mr. Justice K.C. Puri (Annexure-A5). The learned counsel of the applicants stated that the ECC recommended higher pay scale for Instrument Mechanic, Instrument Repairer and Fitter (Instrument). He also invited attention to the recommendation of the General Manager dated 9.2.85 (Annexure-A6) wherein he commended that job of Fitter (Instrument) was superior than the General Fitter for whom upgradation has already been approved. The contention of the learned counsel is that if the applicants have been recommended to be superior to General Fitter they should have been placed in the higher pay scale. He also invited attention to the Pay Specifications for Trade Testing (Annexure-A4) wherein the Fitters (Instrument) 'B' grade have been specifically mentioned instead of the employees of Ordnance Factory, Dehradun.

3. The respondents opposed the prayer of the applicants. In the reply filed, it has been stated that the 3rd Central Pay Commission had recommended formation of Expert Classification Committee to classify the various trades and grades of the industrial employee working under the Ministry of Defence. Accordingly such a Committee was set up by the Government of India in 1974 presided over by Mr. Justice K.C. Puri as Chairman. The ECC studied 1720 jobs in all in different Department under the Ministry of Defence. The ECC submitted its report in January,

*C. B. N. Singh*

1979. The Cabinet approved the recommendations of the Committee and issued orders for fitment of the industrial workers into five pay scales on 16.10.1981. An Anomalies Committee was constituted in 1983 to look into the grievances and anomalies which also submitted its recommendations in respect of 23 trades. The trade of Fitters (Instrument) was not recommended for upgradation to the skilled grade i.e. Rs.260-400. Aggrieved by the recommendations of the anomalies Committee, the applicants had initially filed OA No.1569/1994 and the respondents were directed by this Tribunal vide order dated 30.7.1999 to consider the applicants representation after taking into account the comments furnished by the General Manager, Ordnance Factory, Dehradun. Accordingly, an order was passed by respondent No.2 on 5.1.2000 rejecting the contention of the applicants. However, the applicants were persisted with their grievance and filed an other OA 1239/2001. This Tribunal vide order dated 7.5.2002 again asked the respondents to look into the matter and pass a reasoned and speaking order. Learned counsel of the respondents stated that the impugned orders have been passed as per the direction of the Tribunal after considering all the materials on record. He also pointed out that the applicants were appointed in 1981 as Fitters Grade 'C'. They cannot claim the scale of Fitter Grade 'B' without being promoted to the grade. It was further pointed out by the learned counsel of the respondents that the ECC recommended consideration of the pay scales on the basis of points scored. The points score of the applicants was only 220 and therefore, they were not

*crin 27/9/2001*

(7)

recommended the scale. A reference to the decision of the Hon'ble Supreme Court in Civil Appeal No.3999-4023 of 1988 has been made wherein it has been held that the pay scales allotted to each category of employees on the basis of point scores given by the ECC as a result of job evaluation cannot be termed as arbitrary. It has also been held by the various Courts/Tribunals that the pay scales of the Central Govt. Employees have to be decided by the Expert bodies and the Expert body was set up for this purpose. Learned counsel also stated that the entire facts had been examined time and again by the Secretary and the anomalies from all the possible angles have been examined and it was found that no relief is due to the applicants.

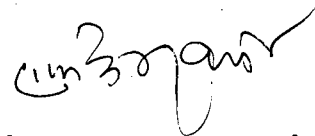
4. Learned counsel of the applicants in the rejoinder stated that the Anomalies Committee had considered the case of the employees of Ordnance Factory, Dehradun as a separate unit though it is fact that the case of the applicants was not specifically considered by the Anomalies Committee as it had considered the cases of Fitters of all other Factories. Since the case of the applicants who are employees of Ordnance Factory, Dehradun was not examined separately. Therefore, there was no occasion to consider their case as a distinct and separate unit. He also stated that the General Manager of Dehradun Factory has admitted that the claim of the applicants was superior to those of Fitters (General). Therefore, this Tribunal should direct the respondents to accord higher pay scale for the period 1991 onwards.

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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 viz-a-viz 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.

6. In view of the matter, this OA is dismissed without any order as to costs.

  
(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

  
(SHANKER RAJU)  
JUDICIAL MEMBER

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