

Yogendra Narayan Chowdhury and Others

Vs

Union of India and Others

Gopal Chakraborty and Others

Vs

Union of India and Others

Civil Appeals Nos. 9312 and 9313 of 1995

(K. Ramaswamy, S. B. Majmudar JJ)

30.11.1995

ORDER

1. In these appeals the only question is whether the appellants - motor pump attendants - are semi-skilled or skilled workers as determined in Government Circular dated 11-5-1983. After the IIIrd Pay Commission, mazdoors working in the military engineering have been classified as unskilled and their scale of pay is Rs 196-232, semi-skilled Rs 200 to 290; skilled Rs 260 to 400 and highly skilled Grade II Rs 330-480, highly skilled Grade I Rs 380-560. As a consequence of fitment, all the unskilled mazdoors, chowkidars who passed the test, were initially classified into skilled category and later it was discovered that it was a wrong classification. Consequently, directions were issued to fit them in the semi-skilled category and direction to recover the arrears paid during the period of 1984 to 1986 was also given. Some of the persons came to challenge these orders before different Benches of the Central Administrative Tribunal. In the Cuttack Bench, the same categories of persons filed OA No. 382 of 1987. The Tribunal held that they being unskilled, are to be classified as semi-skilled since they had passed the test and the semi-skilled is a feeder post to the skilled category, namely, Rs 260-400. Accordingly, while upholding the reversion, directed not to recover the arrears.

2. OA No. 796 of 1987 was filed before the Administrative Tribunal, Calcutta Bench. In the first instance, the Bench had held that the reversion was bad and consequently directed restoration of their category into skilled category. When the matter was challenged by way of special leave petition, that was dismissed in limine. In the meanwhile, another Bench of the Calcutta Administrative Tribunal in the impugned order, following the Cuttack Bench, upheld the reversion but set aside the order of recovery of arrears. Thus these appeals by special leave.

3. Shri Nambiar, the learned Senior Counsel for the appellants, contended that the appellants having passed the prescribed test became skilled and that, therefore, they were properly fitted into the grade of Rs 260-400 in the year 1984 and their reversion to semi-skilled category, i.e., Rs 210-290 is illegal. He further contends that the decision of the first Bench of CAT, Calcutta is proper and this Court had put seal of approval and that therefore the view of the latter Bench and that of the Cuttack Bench are clearly illegal. We find no force in the contention.

4. The Calcutta Bench in the first instance obviously proceeded on the wrong premise, namely, they passed the test and hence became skilled category workmen and also while holding those posts their performance was not found to be unsatisfactory. Therefore, the orders were held to have been vitiated by error of law. That is a wholly misconceived view. The only relevant question to be considered is whether the chowkidars and mazdoors working as motor pump operators and having passed their tests, would be fitted into the semi-skilled category or skilled category. It is not in dispute that semi-skilled is a feeder post for the skilled category. Once they had passed the test, they are necessarily to be fitted into semi-skilled category so that after putting required length of service and other considerations, they would become eligible for promotion into skilled grade. Under these circumstances, the necessary consequence would be that they would be fitted into the category of semi-skilled, consequent to the recommendation of the IIIrd Pay Commission. Obviously, realising this mistake the latter Bench had held to fit them into the category of semi-skilled and assign the appropriate scale of pay. Being semi-skilled, their scale of pay indisputable is Rs 210-260. Accordingly, their fitment is correctly assigned as semi-skilled and it is not a case of reversion but one of proper fitment. Under these circumstances, the view of the first Bench of the Calcutta CAT is clearly erroneous in law.

5. It is settled law that even the dismissal of special leave petition in limine without assigning reasons does not operate as *res judicata*. Under these circumstances, we are of the view that the view of the latter Bench of the CAT, Calcutta and of the Cuttack Bench are clearly consistent with the above reasoning. Therefore, we do not find that these are fit cases warranting interference. The appeals are accordingly dismissed. No costs.