

SHIBA KUMAR DUTTA AND ORS.

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v.

UNION OF INDIA AND ORS.

FEBRUARY 24, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

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Service Law :

Pay scales—Fitters' (T & G)—Drawing higher pay than Fitter—Later nomenclature of all of them removed and fused into one category of Fitter—Erstwhile Fitters (T & G) claiming higher pay—Held, nomenclature and fitment is one of executive policies of Government—Courts cannot go into them and evaluate the job criteria and scales of pay prescribed for each category unless the action is arbitrary and there is invidious discrimination between persons similarly situated—In the circumstances Tribunal is justified in refusing to go into the question.

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 5081 of 1997.

From the Judgment and Order dated 21.6.95 of the Central Administrative Tribunal, Calcutta in O.A. No. 213 of 1992.

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K.C. Dua for the Petitioners.

The following Order of the Court was delivered :

Delay condoned.

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This special leave petition arises from the orders of the Administrative Tribunal, Calcutta Bench, made on June 21, 1995 in OA No. 213 of 1992 and the Review Order dated July 26, 1996.

The admitted position is that the petitioners, who are working as Fitters (T & G), had sought to be fused in the category of, and to be on par with, Jig Borers. They sought equal pay on par with them. They contend that they were drawing higher pay-scales than the Fitter; instead of elevating their cadre and placing them in the Higher pay-scales, they have been brought them down in the category as a Fitter after removing

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- A the two nomenclatures. Thereby, it is arbitrary on account of invidious discrimination. The Third Pay Commission had gone into that aspect of the matter and fixed the scales of pay. Thereafter, admittedly, Expert Classification Committee and Anomalies Removal Committee had also gone into the matter and made distinction between them. Subsequently,
- B nomenclature of all of them were removed and fused into one category, namely, Fitter. Nomenclature and fitment is one of executive policy of the Government. Unless the action is arbitrary or there is invidious discrimination between persons similarly situated, doing same type of work, as is pointed out, it would be difficult for the Courts to go into the question of equation of posts or fitment into a particular scale of pay. They must be
- C left to be decided by the Expert Committees and Government. The Courts cannot go into them and evaluate the job criteria and scales of pay prescribed for each category. Under those circumstances, the Tribunal is justified in refusing to go into the question.

D The special leave petition is accordingly dismissed.

R.P.

Petition dismissed.