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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O. A. 27/2001

with

O.A. 711/2002

New Delhi, this 27th day of February, 2003

HON'BLE JUSTICE SHRI V S AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

O.A. No. 27/2001

1. Rajendra Prasad S/o Late Sh. Hira Lal Gupta,
R/o IV/696A/2B Bhola Nath Nagar,
Shahdara, Delhi
(Presently working as Asstt. Director (QA) in DGS&D)
2. VK Gupta S/o Sh. A. N. Gupta,
1187 Rammagar Extn, New Delhi -110051
(Presently working as Asstt. Director (QA) in DGS&D)
3. S. Puruswami S/o Late Shri Sunder Das Puruswami,
HS-312 Kailash Colony,
New Delhi - 110049
(Presently working as Asstt. Director (QA) in DGS&D)
4. S.K. Masheswari S/o Late Sh. M L Masheswari,
69 A-2, Gautam Nagar,
Delhi - 110049
(Presently working as Asstt. Director (QA) in DGS&D)
5. P K Mahana S/o Ved Prakash Mahana,
Flat No. 64 , Pocket C-1,
Sector 15,
Rohini, Delhi
(Presently working as Asstt. Director (QA) in DGS&D)
6. Sh. S K Mahindru S/o Late Shri Chiranjit Lal

CA 27/2021
and
7/1/2022

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aged about 54 years , R/o D-1/19 Janakpuri, New Delhi
110058
presently working as Asst. Director (QA) in D.G.S &D.

7. Virendra Nagpal s/o Shri U.C. Nagpal
Aged about 54 years R/o D-1B/34C Janakpuri, New Delhi
110058
Presently working as Asst. Director 9QA) in D.G. S &D
8. S.N. Gupta s/o Late Shri Ram Swarup Gupta Aged about 48
years
R/o E-38/104, ~~Sarita~~ Apartments, Rajouri Garden New Delhi
110027 Presently working as Asst. Director (QA) in D.G.S D
9. Sudhansu Kumar Bose s/o Late Shri J.M. Bose
aged about 47 years; R/o L-1/197 DDA Flats, Kalkaji, Delhi
Presently working as Asst. Director (QA) in D.G. S &D
10. Jitender Chand s/o Late Shri Tara Chand
Aged about 46 years; R/o 9/3505, Gyan Gali no. 2,
Gandhinagar Delhi 110031
Presently working as Asst. Director (QA) in D.G. S &D
11. D.K. Saxena s/o Shri F.L. Saxena aged about 50 years
R/o C-123/C , Suryanagar, Ghaziabad U.P.
Presently working as Asst. Director (QA) in D.G. S &D
12. G.P. Rathore s/o Late Shri K.P. Rathore
Aged about 52 years; R/o P-1; Chander Nagar, Delhi
Presently working as Asst. Director (QA) in D.G. S &D
13. Monotosh Bhattacharyya s/o Late Shri M.R. Bhattacharyya
Aged about 52 years ; R/o H-3/100A & B, Mahavir Enclave,
New Delhi 110045; Presently working as Asst. Director (QA)
in D.G. S &D
14. B.S. Jaiswal s/o Shri Gota Ram Jaiswal
Aged about 60 years ; R/o 125 Sector 30, Faridabad
Presently working as Asst. Director (QA) in D.G. S &D
15. Sandeep Kumar Naresh s/o Late Shri D.S. Naresh
Aged about 34 years; R/o 443 Lodhi Road Complex, New Delhi
110003; Presently working as Examiner of Stores (QA) in
D.G. S &D
16. Jaldhari Meena s/o Shri Mulya Ram Meena
Aged about 32 years; R/o RZA-33, Sistapuri, New Delhi -45
Presently working as Examiner of Stores (QA) in D.G. S &D

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7/11/2002

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17. V.K. Agarwal s/o Late Shri Ved Prakash
Aged about 60 years; R/o Sector 4/277, R.K. Puram, New Delhi 110022; Presently working as Asst. Director (QA) in D.G. S &D
18. V.K. Saluja s/o Shri Arjun Dass
Aged about 48 years; R/o 6B, Pocket B, Vikaspuri Ext. New Delhi 110018; Presently working as Asst. Director (QA) in D.G. S &D
19. Masood Ahmad Khan s/o Late Mohd. Khalil Khan
Aged about 53 years; R/o 264/2, Zakir nagar, New Delhi Presently working as Dy. Director (QA) in D.G. S &D
20. V.K. Mehra s/o Late Shri K.L. Mehra
Aged about 59 years; R/o 3/22 Old Rajendra nagar, New Delhi 110060
Presently working as Asst. Director (QA) in D.G. S &D
21. R.S. Pawar s/o Shri Harbans Lal
Aged about 55 years; R/o B-261 Lok Vihar, Pitampura, Delhi 110034
Presently working as Asst. Director (QA) in D.G. S &D
22. G.N. Gupta s/o Late Shri S.N. Gupta
Aged about 49 years; R/o B-40 Saraswathi Kunj Coop Group Housing Society, I.P. Ext., Delhi 110092;
Presently working as Asst. Director (QA) in D.G. S &D
23. B.R. Goel s/o Shri Chiranjit Lal Goel
Aged about 54 years; R/o 114, A.S.S. Ramesh Nagar, Delhi
Presently working as Asst. Director (QA) in D.G. S &D
24. Lalit Kumar Bhugra s/o Late Shri Tek Chand Bhugra
Aged about 42 years; R/o X-5 Second floor, Green Park Main, New Delhi ; Presently working as Asst. Director (QA) in D.G. S &D
25. Smt. Ranjana Bhatti w/o Shri Jugal Kishore Bhatti
Aged about 35 years; R/o Flat 212 C, Pocket-C, Mayur Phase phase I Delhi 110091 Presently working as Asst. Director (QA) in D.G. S &D
26. S.C. Singhal son of Shri Ishwar Chand Singhal
Aged about 54 years; R/o 28 Kailash Kunj, Greater Kailash -I, New Delhi Presently working as Asst. Director (QA) in D.G. S &D

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27. B.P. Trehan s/o Late Shri Jai Gopal
Aged about 59 years; R/o, 28 Kailash Kunj , Greater Kailash-I, New Delhi Presently working as Asst. Director (QA) in D.G. S &D
28. T.R. Sachdev s/o Late Shri K.S. Sachdev
Aged about 60 years; R/o 7/17, South Patel Nagar , New Delhi
Presently working as Asst. Director (QA) in D.G. S &D
29. Parveen Kumar s/o Late Shri Jagdish Chander
Aged about 40 years; R/o 99, Sector 30 Faridabad
Presently working as Asst. Director (QA) in D.G. S &D
30. Smt Gita Pandey w/o Shri Girish Pandey
Aged about 32 years; R/o A-3/151, Sector 8, Rohini, New Delhi 110085; Presently working as Asst. Director (QA) in D.G. S &D
31. B.P. Srivastava s/o Shri Sheetal Srivastava
Aged about 58 years; R/o 3- Nav Shakti Sadan, Sector 13, Rohini, Delhi; Presently working as Asst. Director (QA) in D.G. S &D
32. S.M. Roy s/o Shri S.C. Roy
Aged about B-384, R/o C.R. Park, New Delhi
Presently working as Asst. Director (QA) in D.G. S &D
33. S.P. Singh s/o Shri Ajit Singh
Aged about 54 years; R/o 137/F, Sector 4 Pushp Vihar, New Delhi
Presently working as Asst. Director (QA) in D.G. S &D
34. Subhash Chander Goel s/o Late Shri U.S. Goel
Aged about 48 years; R/o R-36 Inderpuri, New Delhi 110012;
Presently working as Asst. Director (QA) in D.G. S &D
35. V.B. Sharma s/o Shri A.R. Sharma
Aged about 53 years; R/o C-100 Nirman Vihar, New Delhi 110092
Presently working as Asst. Director (QA) in D.G. S &D
36. Manzoor-us-Salam s/o Moulvi Abdul Latif
Aged about 61 years; R/o 21-B Zakir Nagar, New Delhi 110025
Asst. Director (QA) , D.G. S &D (since retired)
37. Devki Nandan Gaur s/o Late Shri P. GaurAged about 48 years; R/o B-144, Sarojinagar , New Delhi 110023

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38. Dinesh Chandra Dimri S/o Late D P Dimri,
G-33, IP Apartments, Plot No. 144,
Delhi 110092 (presently working as Asstt.
Director(QA) in DGS & D.)

39. Vijay Kumar Sehgal S/o Late Sh. S P Sehgal,
R-16A, G. Floor, Kirti Nagar, New Delhi
(Presently working as Asstt. Director (QA))

D.G.S & D.

(By sh. R. Doraiswami, Advocate)

VERSUS

1. Union of India through
Secretary to Government of India,
Ministry of Commerce,
Udyog bhawan
New Delhi

2. Director General of Supplies and Disposals
Jeevan Tara Building,
5, Sansad Marg, New Delhi

..... Respondents

(By Sh. D S Mahendru, Advocate)

O.A. No. 711/2002

1. T.K. Chanda S/o Late A K Chanda,
Examiner of Stores,
R/o E-836, C.R. Park,
New Delhi

..... Applicants.

(By sh. R. Doraiswami, Advocate)

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1. Union of India through
Secretary to Government of India,
Ministry of Commerce,
Udyog bhawan, New Delhi

2. Director General of Supplies and Disposals
Jeevan Tara Building,
5, Sansad Marg, New Delhi

..... Respondents

(By Sh. D S Mahendru, Advocate)

ORDER (ORAL)

BY HON'BLE SHRI GOVINDAN S TAMPI, MEMBER (A)

This combined order disposes of two OAs filed seeking identical reliefs, and having common cause of action. They have also been heard together.

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2. Identical reliefs prayed for in the two OAs are as below:

- (a) allow the OAs with costs;
- (b) quash and set aside the impugned order (s) dated 08/11.01.2001 and 06.02.2002 passed by the respondents;
- (c) issue appropriate orders/directions to respondents No. 1 and 2 to extend the benefits of the CAT Kolkatta Bench judgment / order dated 19.12.1996 (which has further been endorsed by CAT Benches at Chennai, Bangalore, Hyderabad and Chandigarh) to the applicants in these OAs and refix their pay in terms of the instructions contained in the letter dated 31.03.2000 issued by respondent No. 2 and specify the time frame within which the action should be completed;
- (d) direct the respondents to grant all consequential benefits as given to the applicants in OA 757/1990 by CAT, Kolkatta Bench and extended to other similarly placed applicants by other coordinate benches; and
- (e) pass any other order/direction as deemed fit and proper to protect the legitimate rights of the applicants herein.

3. Shri R. Duraiswamy learned counsel, represented the applicants in both the OAs while S/Shri D. S. Mahendru and N. K. Aggarwal, learned counsel appeared for the respondents in OAs 27/2001 and 711/2002 respectively.

4. The applicants in these OAs (39 in OA 27/2001 and 1 in OA 711/2002) are attached to the Inspection (Quality Assurance) Wing in the Directorate General of Supplies and Disposal (DGS & D for short) and are/were working as Examiners of Stores. In terms of the recommendations of the Third Pay Commission, accepted by the Government both 'Examiners of Stores' and 'Sr. Draftsmen' were placed in the same scale of Rs. 425-700 in group 'C'. Following the decision dated 03.07.1987 issued by the Calcutta (now Kolkatta) Bench of this Tribunal in OA 458/86, the scale of pay of 'Sr. Draftsmen' was revised to Rs. 550-750/- w. e. f. 13.05.1982 and granted the replacement scale of Rs. 1600-2660/- w. e. f. 01.01.1986, following the

acceptance of the recommendations of Fourth Pay Commission. As the functions, duties and responsibilities performed by the 'Examiners of Stores' were higher than those of 'Sr. Draftsmen', the former prayed DGS&D for grant of a higher pay scale or at least the same scale as the latter. The same was not heeded to and the applicants continued to be placed in the scale of Rs. 425-700/- and were given the replacement scale of Rs. 1400-2300/- w. e. f. 01.01.1986. Aggrieved by the above, 32 Examiners of stores, attached to the Kolkatta office of DGS&D, moved this Tribunal in OA 757/90, which was allowed on 19.12.1996 RA 47/97 filed by the respondents was dismissed. Following the above, the respondents implemented the decision of the Tribunal in respect of all the 32 applicants on 31.03.2002. Kolkatta Bench had directed that all 'Examiners of Stores', as a class, who were holding the post on or after 1982 to be placed in the scale of Rs. 550-750/- from 13.05.1982 to 31.12.1985 and of Rs. 1600-2660/- w.e.f 01.01.1986. The above judgment was a 'judgment in rem' and was squarely applicable to all the Examiners of stores in DGS&D. Applicants' representation dated 12.10.2000 addressed to the DGS&D seeking the extension of the benefit granted in OA-757/90. The benefit of the decision of the Calcutta Bench in OA 757/90 was extended to 12 Examiners of Stores who approached the Madras Bench of the Tribunal in OA 950/2000, to 9 Examiner of Stores by the Bangalore Bench of the Tribunal on 09.09.2001, in OAs 289/2001 and 742 to 749/2001, Chandigarh and Hyderabad Benches of the Tribunal also extended the same benefit by allowing the OAs filed by concerned applicants. The applicants state that they are similarly placed as their counterparts in Kolkatta, Chennai, Bangalore, Chandigarh and Hyderabad and therefore, they are aggrieved that the benefits which had been extended to their colleagues in those places have been denied to them. Ranchi Bench of the Tribunal also allowed OA 128/2001 to 20 Examiner of Stores of Meteorological and Assaying disciplines. The respondents however had not favorably considered their representations and rejected the same by the impugned order dated 08.01.2002 / 06.02.2002 as being not acceptable and being barred by latches, leading to filing of these two OAs.

5. The grounds raised in these OAs are as below:-

- a) judgment / order 19.12.1996 the Kolkatta Bench of the Tribunal in OA 757/1990, and duly implemented by the respondents on 31.03.2002 was a judgment in "rem" and therefore, the respondents should have suo moto extended the benefit to all Examiners and granted them scale of pay Rs. 550-750/- w.e.f. 13.05.1982 and Rs. 1600-2660/- w.e.f. 01.01.1986.
- b) Kolkatta Bench of the Tribunal had pointed out that both the posts of Jr. Draftsmen, (feeder post for promotion to the post of Examiner of Stores) and the post of the Examiner of Stores having the same scale of pay would be anomalous and that they should be entitled to Rs.1600-2660/-.
- c) the post of Examiner of Stores under the DGS&D was one common cadre for the whole country and the same cannot, therefore, have different scales of pay.
- d) being similarly placed, Examiner of Stores in Delhi could not be denied the benefit granted to their colleagues in Kolkatta decision in OA 757/1999;
- e) in Inderpal & Ors. Vs. Union of India, [1985 SCC (L&S) 526] the Hon'ble Supreme Court had held that the principle enshrined in Articles 14 and 16 of the Constitution would be violated if the benefits are denied to one section of officers merely because it had not come to the court.
- f) decision of Kolkatta Bench had been granted to the applicants by the Regional benches of Madras, Bangalore, Chandigarh and Hyderabad leaving only a few person like the applicants, who have not got the benefit and it was therefore discriminatory.

In the above circumstances, the applicants plead that the OA should be allowed with full consequential benefits to them.

6. In the reply filed on behalf of the respondents in OA 27/2001, it is pointed out that the Kokatta Bench of the Tribunal had, on 3.8.1987, allowed OA-458/86 filed by Sunil Kumar Bhaumik & Ors. (Draftsman) and granted their revised pay scale of Rs.550-750/- w.e.f. 13.5.1982 and Rs.1600-2660/- w.e.f. 1.1.1986. The said benefit was granted to Examiners of Stores in OA-757/90 on 19.12.1996 as well, thus the Examiners of Stores were placed in the pay scale of Rs.550-750/- w.e.f. 13.5.1982 to 13.12.1985 and Rs.1600-2660/- w.e.f. 1.1.1986. Following the adoption of the 5th CPC recommendations Examiner of Stores in DGS&D have been recommended the scale of Rs. 1600-2660/- and same have been given effect to. The Pay Commission had not however considered the demand for the revision of the pay scales of Draftsmen. In OA No. 451/88 (Sone Lal & Ors Vs Union of India), the Principal Bench of the Tribunal had declined to interfere in the matter, leaving it to Expert Bodies like Pay Commission, a view which had been endorsed by the Hon'ble Supreme Court in Union of India Vs P. V. Hariharan. Keeping above in mind, the applicants were granted the revised pay scale of Rs. 1400-2300 w.e.f. 01.01.1986. The respondents also point out that the directions of the Kolkatta Bench of Tribunal in OA No. 458/86 and 757/90 are in contravention of the directions of Apex Court in number of other decisions. Acceptance of the same and extending the benefits to all those in Department would place tremendous stress on the financial resources of the country. They also point out that in OA No. 55/2001 (Balvinder Singh & Ors Vs Union of India & Ors.), the Ahmedabad Bench of the Tribunal had examined this issue and allowed the plea but the actual financial benefits were restricted to the period of one year prior to filing the OA. This decision has been endorsed by Gujarat High Court. They also point out that the dismissal of CP No. 164/97 in OA 757/90 also showed that the re-fixation ordered by the Tribunal's decision applied only to the concerned applicants.

7. Respondents, in their counter in OA 711/2002, point out that the matter of pay scales of Examiner of Stores had been considered by the 4th CPC who directed the revised scale of Rs. 1400-2300/- w.e.f. 01.01.1986, keeping in mind the duties and responsibilities attached to that post. According to them there was no disparity in the pay scales of EO's and Sr. Draftsmen as both of them presently carry the pay scale of Rs. 5000-8000/-. In this case also the respondents accept the position with reference to the decisions of the Tribunal in OA 458/86 filed by *Sunil Kr. Bhoumik & Ors.* and OA 757/90 filed subsequently. However, they pray that the implementation of the decision of the Kolkatta Bench is likely to create chaos in service jurisprudence and place avoidable strain on the financial resources of the country. The request, therefore, should be rejected, plead the respondents.

8. During the oral submissions, Shri Doraiswamy learned counsel appearing for the applicants, in both the OAs strongly reiterated his pleas and stated that the applicants being identically placed as the Examiners of Stores in the same Organisation, who were given the benefit of the higher pay scale by the Kolkatta Bench and endorsed by the respondents, a position followed by Chennai, Bangalore, Hyderabad and Chandigarh Benches should have been granted the same benefit by the Headquarter office suo moto. The fact that the Ahmedabad Bench of the Tribunal, while granting the benefit, restricted the actual benefits to the period of one year prior to the filing of the OA, would not alter the legal position in any manner. More so, as still recently the Ranchi Bench of the Tribunal, while adopting the decision of Kolkatta Bench had considered the decision of the Ahmedabad Bench also. The benefit had been extended only to maintain the distinction in the pay scale between the post of Junior Draftsmen (the feeder post) and Examiner of Stores (the promotion post). The same was based on correct law and logic. Shri Doraiswamy therefore pleads that the applicants should be declared as being entitled to the benefits of the decision of Kolkatta bench from 1982 with consequential benefits by way of arrears of pay and allowances along with interest and cost.

9. Shri D. S. Mahendru appearing for the respondents in OA 27/2001, generally repeated the points made in his counter and stated that the Kolkatta decision being a judgment in personam should not be applied in the case of applicants.

10. Shri N. K. Aggarwal, Sr. Advocate appearing for the respondents in OA 711/2002, vigorously argued that the OA was not maintainable, being hit by limitation. According to him, the applicants are seeking, as late as in 2002, certain financial benefits relating to 1982 onwards and the same should not at all be considered. He sought to rely upon the decision of the Hon'ble Supreme Court in the case of Union of India Vs Kishori Lal Bablani [1999 (1) SCC 729], wherein the following has been laid down:-

"Delay defeats equity, is a well-known principle of jurisprudence. Delay of 15 and 20 years cannot be overlooked when an applicant before the court seeks equity. During all these years, the respondent had no legal right to any particular post. After more than 10 years, the process of selections, notification of vacancies cannot be and ought not be reopened in the interest of proper functioning and morale of the concerned services. It would also jeopardise existing positions of a large number of members of that service".

11. The applicants who had been sleeping comfortably all these years cannot now come up and claim that they should be given benefits, and that too from 1982, according to Shri Aggarwal. The learned Sr. Counsel also pointed out that the decision of the Kolkatta Bench of the Tribunal cannot be treated as judgment in 'rem' as the same was meant only for the 32 applicants, who were parties in the said OA and the same also had not been extended in the case of others, though an attempt had been made by filing a Contempt Petition, which had been turned down. Besides, the Ahmedabad Bench had also declined to give the benefits which had been granted by the Kolkatta Bench, a view which has been endorsed by the Hon'ble High Court of Judicature at Gujarat. The OA, in the circumstances would merit dismissal according to Shri Aggarwal.

12. We have carefully considered the matter. We find that the applicants in both the OAs have come before us, seeking the extension of the benefits of higher

fixation of pay granted to thirty two (32) of their colleagues by the Kolkatta bench of the Tribunal in OA 757/90, decided on 19.12.1996. Their requests had been rejected by the identical impugned orders dated 11.01.2002 and 06.02.2002, which read as under:-

"Reference is invited to his representation dated 04.02.2002 regarding extension of the benefits of higher pay scale granted to some Examiner of Stores as a result of implementation of the judgment dated 19.12.1996 passed by the Hon'ble CAT, Kolkatta Bench in OA No. 757/98.

2. His representation has been sympathetically considered by the Competent Authority. The OA No. 757/90 was filed in CAT, Kolkatta Bench by the Non-gazetted Technical Staff Association, Kolkatta on behalf of its members, the names of which were clearly mentioned in the OA. The judgment dated 19.12.1996 delivered by the Kolkatta Bench in the said OA was, therefore, implemented in respect of the members of the said Association. As the Association did not represent all Examiners of Stores in the Cadre, his contention that the benefits of the judgment should be extended to him, cannot be accepted.

3. As he was non-applicant in the above said OA, it has been decided that the benefits of judgment dated 19.12.1996 cannot be extended to him suo-moto.

4. Further, it may also be stated that his claim is grossly delayed. The cause of action arose as early as 1982 after which the Fourth and the Fifth Central Pay Commissions have already made their recommendations, which were implemented with effect from 01.01.1986 and 01.01.1996 respectively. As he did not take any steps to stake his claim at the relevant point of time, his claim is barred by laches"

13. The main ground raised in the impugned orders is one of delay and laches which has been emphasized, as the preliminary objection by the learned Sr. Counsel for the respondents. According to them, the applicants who had accepted the payment of their emoluments in a particular scale, without any demur for nearly two decades cannot successfully plead their case before us now as the claim is totally based by limitation. We do not agree. The matter of pay and allowances is a continuous cause of action as has been clearly settled by the Hon'ble Supreme Court in the case of M. R. Gupta Vs. Union of India & Ors. [1995 SCC L & S 1273] wherein it is stated as below:-

"The Tribunal misdirected itself when it treated the appellant's claim as "one time action" meaning thereby that it was not a continuing wrong

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based on a recurring cause of action the claim to be paid the correct salary computed on the basis of proper pay fixation is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a government servant to be paid the correct salary throughout his tenure according to computation made in accordance with the rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind".

14. In this case, the matter under challenge is the denial of higher pay scale, which has been granted to identically placed individuals in the same organisation and it therefore constitutes a continuous cause of action and is, therefore, protected the above decision. The preliminary objection on limitation is, therefore, repelled. The Tribunal can and would entertain the OA on merits, but would be free to modify and mould the relief, keeping in mind the delay, which admittedly has occurred.

15. The respondents' further plea that the decision of the Kolkatta Bench in OA No. 757/90 was a judgment in personam, which could not be extended to others like the applicants also has to be repelled. The Kolkatta Bench had allowed OA 757/90 keeping in mind the fact that it would be anomalous to have the same pay scale for the feeder post (Jr. Draftsman) and the promotion posts (Examiner of Stores). These posts are identical in all the units under the DGS&D, performing the same functions and discharging same duties and responsibilities. It is only natural therefore, that principle laid down by the Kolkatta Bench and duly adopted by the respondents is made applicable to all those who are identically placed in the same Organisation without forcing each one of them to come to the Tribunal. In fact, as pointed by the Hon'ble Supreme Court in the case of Inderpal Yadav and Ors. (supra) denial of the above benefits to a few identically placed individuals in the same organisation would amount to violation of Articles 14 and 16 of the Constitution.

16. Coming to the merits of the case, we observe that the applicants who are Examiners are seeking the benefit of the decision of the Kolkatta Bench of the

Tribunal in OA 757/90 decided on 25.01.2000. The relevant portion of the said judgment would deserve repetition in the context:

"But what is more important is this that according to the recruitment rules, the Examiner of Stores can be appointed by the transfer of Senior Draftsman, who possess same qualifications, prescribed for Examiner of stores or having seven years combined service in the grade of Senior/Junior Draftsman. Thus the posts of Examiner of Stores can be filled up by lateral induction from among the Senior Draftsman having same recruitment qualification. In such a situation, there is hardly any justification to prescribe a scale of pay for Examiners of Stores lower than that of Senior Draftsman. It also appears that under the recruitment rules, the Examiners of Stores is the promotional posts for the Junior Draftsman, which carries same scale of pay of Rs. 1400-2300, resulting in anomalous situation of the feeder post and the promotional post having same scale of pay. In such circumstances we find no force in the contention of Respondents that the duties and responsibilities of the two categories of post are not comparable or that no revision of pay scales for Examiners of Stores, can be made as they had ample opportunity to represent their case before the Pay Commission or that it fix the pay scale with due regard to their nature of duties and responsibilities".

17. In view of the above, the OA was allowed and the applicants were granted the benefit of the higher scale of 550-750 w.e.f. 16.05.1982 and 1600-2660 w.e.f. 01.01.1986 which had already been granted to Senior Draftsman. The respondents are also found to have given effect to the above order, as affirmed by themselves in their counter affidavit dated 20.11.2002 in OA No. 27/2001

18. It is further seen that the decision of the Kolkatta Bench of the Tribunal dated 19.12.1996 in OA 757/90, has been adopted by the Madras bench of the Tribunal in OA 950/2000 filed by B. V. Kusala Rao and Ors. which has been implemented by the respondents on 01.08.2001. Similar order passed on 13.09.2001 in OAs 289/2001 and 742 to 749/2001 by the Bangalore Bench of the Tribunal had also been given effect to by the respondents on 30.11.2001. Identical decisions given by the Chandigarh Bench in OA 260/PB/2001 filed by Jasver Singh and 9 Ors. and by the Ranchi Bench in OA No. 128/2001 filed by A. K. Agarwal and Ors., have also been adopted by the respondents. However, the Ahmedabad Bench of the Tribunal, which deciding OA No. 55/2001 filed by Balvinder and Ors. Vs. UOI had adopted a different view and had granted the benefit, but with directions that the actual monetary benefits be restricted to one year prior to filing of the OA.

19. In the above circumstances, the fact that the Kolkatta Bench had declined to extend the benefits, while considering the CP, filed by few others, strenuously canvassed by the learned Senior Counsel for the respondents, does not amount to much as the scope of the CP was limited and was confined to the said decisions and to the concerned applicants.

20. In the circumstances, we are convinced that benefit of higher pay of Rs. 550-700 with effect from 13.05.1982 and 1600-2600 w.e.f. 01.01.1986, granted to Examiners of Stores working in the offices of DGS&D at Kolkatta, Chennai, Bangalore, Hyderabad, Chandigarh and Ranchi and granted, though conditionally to those working in Ahmedabad office, should be extended to the applicants in these two OAs also, as they are identically placed in the same organisation. We order accordingly. The impugned orders of the respondents would therefore have to be quashed and set aside and the applicants granted the benefits. While passing this order, we are not encroaching upon the turfs of the experts like Pay Commission, as is sought to be made out, but are only extending the benefits to the applicants already granted by the Pay Commission and co-ordinate Benches of this Tribunal, in a number of other OAs. However, keeping in mind the fact that the applicants in these two OAs have approached us only very recently, we are of the view, the extent of benefits being granted would have to be restricted.

21. In the above view of the matter, the OAs succeed and are accordingly allowed. The impugned order(s) dated 11.01.2001 / 06.02.2002 are quashed and set aside. The respondents are directed to grant the applicants revised pay scale of Rs. 550-700 from 13.05.1982 and 1600-2660 w.e.f. 01.08.1986, with consequential benefits. They will be entitled for fitment of their pay notionally with annual increments in the higher scales from 13.05.1982, but the actual monetary benefits will be restricted to the period of three years immediately preceding the filing of these OAs – i.e. from 01.01.1998 in OA 27/2001 and from 15.03.1999 in OA 711/2002. Respondents shall ensure that the arrears of pay and allowances

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calculated as above shall be drawn and disbursed to the applicants within a period of three months from the date of receipt of a copy of this Order.

22. We also direct that a copy each of this order be placed in both the OAs. Parties shall bear their own costs.

23. Pronounced in the Court at the conclusion of the oral submissions.

(GOVINDAN S. TAMPI)
MEMBER (A)
Patwal/

(V. S. AGARWAL)
CHAIRMAN