

A

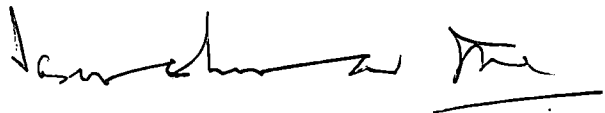
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1976/2002

New Delhi, this the 16th day of January, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)  
HON'BLE MR. BHARAT BHUSHAN, MEMBER (J)

- 1.. Shri Chanderma Ram,  
S/o Late Shri Kallu Ram,  
R/o RZ-72, Braham Puri,  
Pankha Road, New Delhi - 46
- 2.. Shri Hem Raj,  
S/o Late Shri Ram Parshad,  
R/o RZD II/99, Jiwan Park,  
Pankha Road, New Delhi - 46
- 3.. Shri Iqbal Singh,  
S/o Late Shri Mahinder Singh,  
R/o 80, Sector IV,  
Timar Pur, Delhi - 110 054
- 4.. Shri Kundan Kumar,  
S/o Late Shri Faqir Ram,  
R/o Z-972, Timar Pur, Delhi 54
- 5.. Shri Inder Jeet,  
S/o Late Shri Arora Ram,  
R/o P-21/2, m DIFR Hostel, Timar Pur, Delhi-57
- 6.. Shri Ram Lakhan,  
S/o Late Shri Ganga Ram,  
R/o K-363, Shakur Pur,  
Delhi - 110 034
- 7.. Shri Rajju Singh,  
S/o Late Shri Khubi Ram,  
R/o 61, Khyber Pass MESS  
Delhi - 54
- 8.. Shri Balbir Singh,  
S/o Shri Abhey Ram,  
R/o H. No. 390, East Kidwai Nagar,  
New Delhi
- 9.. Shri Deepak Sablok,  
S/o Shri Roshan Lal Sablok,  
R/o 1088 MS Timar Pur, Delhi - 54
- 10.. Shri Suresh Kumar,  
S/o Shri Dharam Singh,  
R/o H. No. 310, Type-II,  
Sector-IV, Timar Pur,  
Delhi - 54
- 11.. Shri Kanwaljeet Singh,  
S/o Shri Mahinder Singh,  
R/o 1096, Type B, Timar Pur,  
Delhi - 110 054



12. Shri Puran Chand,  
S/o Shri Prabu Dayal,  
R/o H.No. 50, Timar Pur,  
Delhi - 110 054

(By Advocate : Shri S.K. Sinha)

..... Applicants

Versus

1. Union of India,  
Through its Secretary,  
Ministry of Defence,  
South Block,  
New Delhi - 110 001
2. Defence Research & Development Organisation,  
Ministry of Defence,  
Sena Bhawan, B Wing,  
New Delhi - 110 011
3. The Director,  
Centre for Environment Explosive Safety,  
Defence Research & Development Organisation,  
Ministry of Defence,  
New Delhi - 110 054

.... Respondents

(By Advocate: Shri Surender Kumar)

O R D E R (ORAL)

BY SARWESHWAR JHA :

The applicants have challenged the action of the respondents amending the relevant rules while restructuring the Fire Fighting Cadre under different Departments of the same Ministry i.e. the Ministry of Defence. They have alleged that serious prejudice has been caused to them inasmuch as they have been denied the benefits/treatments which have been granted to similarly situated officials in the Ministry of Defence and with whom parity had been maintained till the impugned action was taken. The applicants have also impugned the communication of the Department of Defence Research and Development dated the 31st January, 2002 whereby their request for parity with the Fire Fighting staff of the Army Ordnance Corps (AOC) and Atomic Energy and Space has been rejected.

24

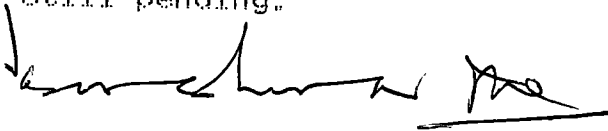
2. Submitting the facts of the matter, the applicants, who are working as Senior Fireman 'A' as well as Senior Fireman 'B' from different dates in the scales of pay of Rs.3050-4590 and 3200-4900 respectively in the Defence Institute of Fire Research (DIFR), which is now merged with the Centre for Environment Explosive Safety (CEES) have submitted that parity was maintained hitherto between the officials holding the same grade in the Ministry and that the same has been disturbed vide DRDO's letter dated the 3rd February, 2000. This has caused great financial loss to the applicants.

3. The applicants have given the details of existing scales of pay, designations and modes of recruitment to the various posts in the Fire Service Wing in paragraph (b) of their Original Application to give an idea of the premiss from which the 5th Central Pay Commission (CPC) proceeded to recommend the designated scales of pay and modes of recruitment for Fire Service staff under the Ministry of Defence. Proposed designations, scales of pay and mode of recruitment against these posts are given under the same paragraph in the OA. Acceptance of the recommendations of the 5th CPC led to amendment of the Rules as notified under SRO 14E dated 29th May, 1998 and the amended Rules in respect of Group 'C' and 'D' posts in the Fire Service got notified, a copy of which is placed at Annexure A-3. The Department also issued a Circular dated 26th March, 1998, restructuring the Fire Fighting Cadre in the DRDO. It is observed that the cadre is now headed by a Chief Fire Officer in the pay scale of Rs.7500-12000. The applicants have made a reference to the fact that the Fire Service Cadre in the AOC had also been

*[Handwritten Signature]*

restructured vide their Circular dated the 3rd February, 2000 (Annexure A-5). The purpose of referring to the restructured cadre is also perhaps to highlight a general point that the different Organisations under the Ministry of Defence have treated the subject differently and in the process have created anomalies. In a chart placed at Annexure A-8, they have endeavoured to demonstrate the difference in the pay scales as well as further promotional avenues in DRDO vis-a-vis the other Wings of the Ministry of Defence. They have drawn a distinction between the promotional avenues available to the Senior Fireman 'A' and Senior Fireman 'B' after putting in five years regular service as Senior Fireman 'B' failing which 10 years combined regular service as Senior Fireman 'A' and Senior Fireman 'B' whereas the similarly placed officials in the AOC are eligible for promotion to the post of Fire Master in the scale of Rs.4500-7000. The post of Fire Superintendent carrying the pay scale of Rs.5000-8000 under DRDO is filled by promotion from the post of Fire Master with 5 years regular service in the grade, failing which 10 years combined service in the grades of Fire Master and Fire Supervisor. Thus, it is observed that the post of Fire Supervisor in the scale of Rs.4000-6000 is not in existence in the AOC. The applicants have made a plea that the parity so far maintained in terms of pay scales as well as promotional avenues should not have been disturbed or varied, causing disharmony amongst the staff discharging the same duties and responsibilities.

4. The matter appears to have been referred to the Grievance Redressal Committee, Ministry of Defence where it is still pending.

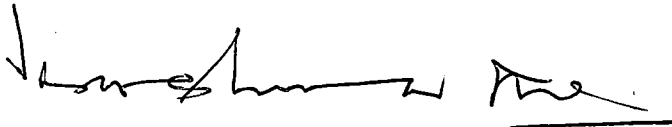


5. The applicants have also another grievance relating to the date from which the revised pay scales and the benefit of restructuring have been made operative in their case. While the revision in the pay scales in pursuance of the recommendations of the 5th CPC has been effected from 1.1.1996, in the case of the Fire Fighting Cadre in the Ministry of Defence it has been made effective only from 15th April, 1998.

6. A reference has been made to the applicants having approached this Tribunal vide OA No.2941/2001 which was disposed of on the 29th of October, 2001 with a direction to the respondents to pass a detailed and speaking order within a period of three months (Annexure A-7). However, the orders passed by the respondents dated 31st January, 2002 and which have been conveyed to the applicants vide respondents letter dated 10th June, 2002 are not to the likes of the applicants and accordingly they have impugned it.

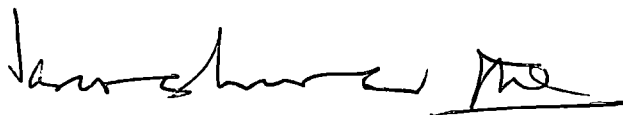
7. While praying for quashing of the said letters, among other things, the applicants have prayed that the respondents be directed to maintain parity between the posts which the applicants are holding and the different posts relating to Fire Services with which there have been parity hitherto. They have also prayed that the respondents be directed to implement the restructuring w.e.f. 1.1.1996 with all consequential benefits.

8. The respondents in their reply have submitted that the 5th CPC have recommended specific scales of pay for the Fire Fighting staff under the Ministry of Defence, as given



in paragraph 2 (ii) of their counter affidavit, and after taking into account the carrier planning, stagnation/ educational profile and functional requirements of these posts, the cadre in the DRDO has been restructured vide their letter dated the 26th March, 1998. In the restructuring of the cadre, the scales of pay as recommended by the Pay Commission have been adopted. They have given the details of how the scales of pay have been applied to the restructured cadre in sub paragraphs 2 (i, (iii), (iv) and (v) of their counter affidavit. They have submitted that the overall revision of the scales of pay as recommended by the 5th CPC w.e.f. 1.1.1996 has been effected uniformly for all cadres in the DRDO including the Fire Fighting staff after carrying out necessary restructuring keeping in view the 5 CPC's guide-lines and the discussions at various forums before the same were finalised w.e.f. 15.4.1998.

9. In specific reply to paragraph 2 of the OA, the respondents have invited attention to the decisions of the Hyderabad Bench of this Tribunal given in OA No. 762/2000 in P. Papaiah & Others vs. Union of India in which the judgement of the Hon'ble Supreme Court in Union of India & Anr. v P.V. Hariharan & Anr. (1997 SCC (L&S) 838) has been referred to in which, among other things, it has been held that "The Tribunal should realize that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into problem at great depth and happens to have a full picture before it, is the proper authority to decide upon the issue. Very often, the doctrine of 'equal pay for equal work' is also being misunderstood and misapplied, freely revising and enhancing the pay scales



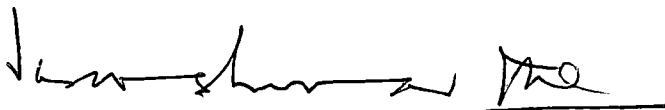
25

across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

10. The respondents have asserted that the restructuring done in the case of the DRDO shall ensure that there is career advancement at every level with the highest post placed at the pay scale of Rs.7500-12000 as per the recommendations of the 5th CPC. Accordingly, they have pleaded that the restructuring has to be confirmed in totality and not to be compared in parts with some other restructuring which may not even have a complete cadre structure.

11. A reference has also been made to similar issues having been raised in another OA, namely, OA No.3389/2001 in Rhagwat Swaroop v. Union of India and Others which was dismissed by the Principal Bench of this Tribunal. They have also made a reference to the fact that the matter has also been considered by the Joint Consultative Machinery as well as the Grievance Redressal Machinery in the Ministry in great detail. Accordingly, the respondents have pleaded that the present OA also deserves to be dismissed.

12. The applicants have filed a rejoinder in which they have reiterated some of the points already submitted by them and argued that the applicants have been discriminated against in so far as the parity maintained hitherto has been disturbed by the respondents and also that the Recruitment

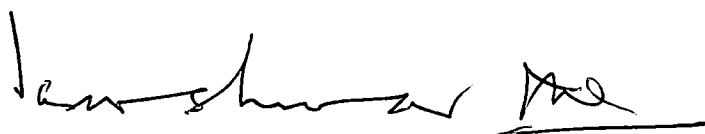


26

... : 8 :

Rules which were governing the working of the DRDO has not been given due respect by the respondents. To support their submissions on the question of parity in the pay scales, the applicants have cited the decision of the Tribunal In OA No. 2719/2002 as decided on the 21st November, 2003 and have claimed that similarity in duties and responsibilities should be kept in view while revising the scales of pay of the relevant categories of posts.

13. Having regard to the facts and circumstances of the case, we observe that the applicants, who have approached this Tribunal in the second round of litigation, had been given opportunities by the respondents to ventilate their grievances before the Grievance Redressal Committee as well as before the Joint Consultative Machineries where they had been given enough opportunities to get the matter examined and discussed in all possible details. It is also a fact that the matters relating to revision in the scales of pay etc pertain to the domain of the Pay Commissions and they make recommendations on the basis of the facts available before them. Their functions can hardly be substituted by the Courts/ Tribunals appropriately. It is also observed that restructuring of the cadre of Fire Fighting services has been done by the respondents keeping in view the career planning, avenues for promotions etc. in respect of the posts in the cadre. To bring up such matters before the Tribunal for fresh consideration of the various issues is, in fact, not a very appropriate step taken by the applicants. Drawing parity with the Fire Fighting staff of the other Organisations simply because there had been parity in the posts will also not be correct for the reason that each





g7

Organisation, particularly the Atomic Energy Commission and the Space Research Organisation have their own peculiar jobs and duties attached to these posts and, therefore, to argue that they are totally comparable posts will not be correct. No doubt, the Pay Commission must have applied their mind to all these aspects while recommending the scales of pay for the various posts in the cadre. Moreover, the recommendations of the Pay Commission were followed by a thorough restructuring of the cadre by the Department when the applicants had adequate opportunity of representing their cases. They were also given necessary opportunity to do so. Therefore, keeping in view the submissions made by both the sides and also the decisions of the Hyderabad Bench of this Tribunal as referred to hereinabove, we do not consider it proper to interfere with the decisions of the respondents as conveyed vide their orders dated the 26.3.1998, 31.1.2002 and 10.6.2002.

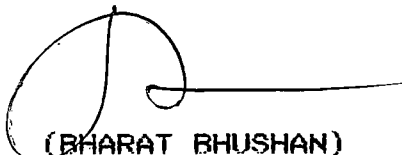
14. However, we do not know whether the question of making the restructuring applicable w.e.f. 1.1.1996 from which date the recommendations of the 5th CPC were made effective was give due consideration by the respondents. It is observed that the revision of the scales of pay and the restructuring of the Fire Services cadre has been made operative w.e.f. the 15th April, 1998, as the same were finalised to be effective from the said date, the appropriate course could have been to consider applying the revised scales of pay and restructuring from the same date from which the revisions in the scales of pay had been recommended by the 5th CPC. There is no doubt that restructuring a cadre based on the recommendations of the Pay Commission has to

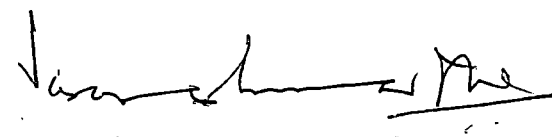


28

pass through discussions/examination of the matters involved before restructuring is finalised and as such it takes considerable time, but care is taken to see that the employees are not put to any kind of loss as a result of long discussions/debates on the subject.

15. Thus, keeping in view the facts and background of the case, we are not inclined to allow this Original Application and accordingly the same is dismissed. As regards giving effect to the restructuring of the cadre w.e.f. 1.1.1996, it will be expected of the respondents that they will apply their mind to the same in consultation with the Ministry of Defence as well as the Ministry of Finance/ Department of Personnel & Training, Government of India and will resolve the matter appropriately keeping in view our observations in the preceding paragraphs.

  
(BHARAT BHUSHAN)  
MEMBER (J)

  
(SARWESHWAR JHA)  
MEMBER (A)

/pkr/