

CENTRAL ADMTNISTRATIVE TRIBUNAL
PRTNCTPAT. BENCH, NEW DELHI

O.A. NO. 1563/2002

Wednesday, this the 29th day of January, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

- 1 PRATAP SINGH s/o Sh. Chokh Raj
H.No 741 Navin Ngr. Gol Bhalta, Roorkee Rd. Meerut.
- 2 KAMLESH RASTOGI w/o Sh. B. P. Rastogi
293 Bakri Mohalla, Lal Kuri, Meerut
- 3 R. S. B. NAGAR d/o Sh. G. D. Nagar
8 Sarvodaya Colony Behind I.T.I. Meerut
- 4 VIMAL ANAND w/o V. K. Anand
Shivaji Colony Meerut Cant.
- 5 K.S. GARG d/o L.N. GARG
640 Prahalad Vatika, Budhana Gate, Meerut
- 6 SANTOSH REKHY w/o T. R. REKHY
293. Bakri Mohalla, Lal Kuri, Meerut Cantl
- 7 S. L. SHARMA w/o R. D. Swami
C 7 Panday Nagar Meerut
- 8 NARENDRA BHATIYA w/o D. S. Bhatiya
T-121 Pallav Puram, Phase-II, Meerut
- 9 KULBIR KAUR w/o PREM SINGH
240 West Rd. Meerut.
- 10 J. S. SINGH w/o Sh. S. M. Singh
B 26 Civil Lines, 960 Mission Compound, Saket, Meerut
- 11 RAMESHWARI w/o P. S. Sodhi
178. Jubliganj Rajban Bazar, Meerut Cant.
- 12 S. L. BAKSHI w/o Sh. Bakshi
322 Meenarva Institute, Meerut
- 13 UTTAM SHARMA w/o O. P. Sharma
527 Bakri Mohalla, Meerut Cant.
- 14 SUDESH CHIBBER w/o K. S. Chibber
C 4/2 Lekha Nagar, Meerut Cant
- 15 K. VEENA MANGLIK d/o O. P. Manglik
20 Kunj Vihar, Meerut
- 16 DROPATI YADAV w/o Baj Nath Yadav
178-179 Kuraiganj, Reg. Bazar, Meerut.

- 17 S. B. SHARMA w/o Chand Bahadur
186/4 Jagan Nath Puri, Shivaji Rd. Meerut
- 18 I. S. NAGAR % C. S. NAGAR
565 Ganga Ram Kathata, Kesarganj, Meerut
- 19 BHAGWANTI GUPTA w/o S. P. Gupta
210-211 Sadar Bazar, Meerut Cant.
- 20 DAYAWATI w/o Late Sh. P. N. Gupta
127 Ganga Enclave, Rohta Rd. Meerut
- 21 P. K. JAIN % Sh BN Jain
C 1/8 Lekha Ngr. Meerut
- 22 URMIL SAHANI w/o S. K. Sahani
1018/13 Shastri Ngr. Meerut
- 23 REETA DASS w/o A. K. Dass
210 A Western Rd. Meerut
- 24 RAVI KANTA KAKER w/o Sh. O. P. Kaker
161 P. L. Sharma Rd. Meerut
- 25 SUSHILA RANI w/o Sh. M. L. Chopra
B 273. Shastri Ngr. Meerut
- 26 SANTOSH TALWAR w/o G. K. Talwar
L 97 Shastri Ngr. Meerut
- 27 INDU BALA MALHOTRA w/o Late Sh. Ajeet Prakash
G 91 Shastri Ngr. Meerut
- 28 SURESH CHAND % Sh. Phool Chand
179 Arvindpuri, Sadar Bazar, Meerut Cant
- 29 RATTAN LAL % Mangat Ram
97/2 Subhash Ngr. Meerut
- 30 BRIJ PAL % Sh. Raiyal Ram
C 7/7 Lakha Ngr. Meerut Cant
- 31 USHA ANAND w/o J. C. Anand
168 New Arya Ngr. K. Khera, Meerut Cant
- 32 SAKUNTALA DEVI % Rukmani Devi
Rukmani Bh. 132/A Jawahar Puri, K. Khera, Meerut
- 33 SHASHI BISNOI w/o Sh. Bisnoi
164 Shivlok K. Khera, Meerut Cant.

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- 34 NIRMAL KANTA w/o Yogendra Pal
562 Govindpuri K.Khera, Meerut Cant.
- 35 S. C. KUMAR s/o Sh. A.L. Kumar
P 5/9 Lekha Ngr.
- 36 SUDESH CHADHA w/o Sh. Chadha
L 1563 Shastri Ngr. Meerut
- 37 K. POONAM RAJPUT d/o Late Sh. Sain Dass
B 20/B Lekha Ngr. Meerut
- 38 N. K. AGARWAL s/o Sh. Muhibidhar
B 11/7 Lekha Ngr. Meerut Cant.
39. DEV RAJ SAXENA s/o Late Sh. Chatri Ram
C-4. Adarsh Nagar. Meerut Cant.
- 40 RAJINDER SINGH s/o SUMER SINGH
B 16/3 Lekha Ngr. Meerut Cant.
41. MANJU ARORA w/o Sh. Vinod Kumar.
487 Sector 3 Shastri Ngr. Meerut
42. G. K. Joshi s/o P. C. Joshi
H No 741 Navin Ngr Gole Bhatha, Meerut
43. S. P. SWAMI s/o Late Sh. S. C. Swami
B 11/7 Lekha Ngr. Meerut
44. INDER DEV SHARMA s/o Sh. R. K. Sharma
Village & P.O. Daurala, Meerut

(By Advocate:— Shri Deepak Verma).

v/s

UNION OF INDIA

THROUGH

Contd. -4/- -

1. The Secretary
Ministry of Defence.
South Block.
New - Delhi - 110001

2. The Secretary
Dept. of Expenditure
Ministry of Finance
North Block.
New - Delhi - 110001

3. The Controller Genl. of Defence
Accounts (CGDA)
West Block 5. R.K. Puram
New - Delhi - 110066

4. Controller of Defence Accounts
(CDA) C.C. Meerut (U.P.)

5. Jt. Controller of Defence Accounts (Fund)
C.C. Meerut (U.P.)

6. Controller of Defence Accounts (Trg)
C.C. Meerut (U.P.)
(By Advocate - Shri R.N. Singh).

RESPONDENTS

ORDER (ORAL.)

Shri Govindan S. Tampi:

Reliefs sought by the 44 applicants in this case
are as below:-

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(5)

"(i) re-fix the pay of applicants in their respective revised scales w.e.f. 1.1.86 instead of 11.9.89, as done in case of DEOs at Lucknow, Jabalpur, New Delhi working under some Dept./Ministry as per OAs referred thereon.

(ii) disburse consequential monetary benefits as a result of such re-fixation; and

(iii) any other or further relief the Honble Tribunal may deem fit & necessary."

2. Heard S/Shri Deepak Verma, learned counsel for the applicants and R.N.Singh, learned counsel for the respondents.

3. The applicants are Electronic Data Processing (EDP) personnel working as Data Entry Operators (DEOs) in the respondents' organisation. Following the acceptance of recommendations of 4th Central Pay Commission, EDP personnel were redesignated and their scales of pay were revised w.e.f. 11.9.1989 vide the Department of Expenditure's Office Memorandum No. F 7 (1)TC/86 (44). The date of revision/re-designation w.e.f. 11.9.1989 was challenged by affected individuals in a number of OAs, namely, OA-1759/97 (Deepak Verma Vs. Union of India), OA-1599/97 (Saroj Kapoor & Ors. Vs. Union of India), OA-2289/98 (S.K. Vij & Others Vs. Union of India) and OA-2639/99 (Babulal & Others Vs. Union of India). Full Bench of Principal Bench of the Tribunal had allowed the aforesaid OAs and directed that the re-fixation/redesignation should give effect from 1.1.1986. This has been given effect to in the respondents' organisation and in a number of other Departments. However, in the cases of the present applicants, this was

not done as they were not applicants in the concerned OAs. Their request is that the above be extended to them as the orders passed by the Tribunal and the Courts in this matter are judgments in rem and, therefore, they should have been granted the benefits without dragging them into Courts, as it had been directed by the Hon'ble Supreme Court time and again. In the reply filed on behalf of the respondents, it is indicated that the judgments concerned are only qua the applicants in the said cases, and the present applicants not having agitated the matter before the matter cannot seek any benefit thereon.

4. During the oral submissions, both S/Shri Deepak Verma and R.N. Singh reiterated their respective pleadings. Shri Verma stated that as the position has been settled by this Tribunal on 31.7.2000 in OA-2639/99 (Babu Lal & Others Vs. Union of India & Others), which judgment was duly upheld by the Hon'ble Delhi High Court, there was no reason why all other persons similarly circumstanced were not granted the benefit irrespective of the fact that they had not specifically approached the Tribunal. Shri Verma also referred to the decision of the Hon'ble Supreme Court in Ashwani Kumar Vs. State of Bihar [1997 SCC (L&S) 267] to the effect that the benefit of a judgment should be extended even to those who were not party in the Court, but are similarly situated.

5. We have carefully considered the matter. We find that what the applicants are seeking in this case is the extension of the benefit of a number of judgments passed by the Tribunal, duly upheld by the Hon'ble Supreme Court.

(7)

for extending the benefit of redesignation and revision of pay scale for EDP Personnel/DEOs w.e.f. 1.1.1986, which has been granted to those similarly placed. We find that the Full Bench of the Tribunal while disposing of OA-2639/99 on 31.7.2000 (supra) had examined the entire gamut of the Ministry's OM dated 11.9.1989 and held as below:-

"11. Present O.A. is accordingly allowed. Respondents will grant the benefit of the aforesaid O.M. dated 11.9.1989 to applicants with effect from 1.1.1986. They will accordingly grant the consequential benefits arising from this order to applicants within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs."

The same had been duly upheld by the Hon'ble Delhi High Court on 13.12.2001 in CWP Nos. 3610 to 3612 of 2000. We further observe that the above decision has been followed by the Principal Bench of the Tribunal in OA-2289/98 decided on 20.10.2000, and by the Allahabad Bench of the Tribunal in OA-627/2002 decided on 20.5.2002. Therefore, there is no justification as to why the applicants in this OA, who are similarly circumstanced, as the applicants in those OAs, should be denied the benefit of the refixation merely because they were not parties in the OAs, earlier filed. As Shri Deepak Verma has pointed out the decision of the Full Bench of this Tribunal in OA-2639/99 (supra), duly upheld by the High Court, was a judgment in rem and, therefore, squarely applicable in respect of others similarly placed.

6. In the result, OA succeeds and is allowed. Respondents are directed to grant the applicants, EDP

(8)

Personnel, the revised pay scales w.e.f. 1.1.1986 with full consequential benefits, including arrears of pay and allowances. This shall be done within a period of four months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member (J)

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(Govindan S. Tampi)
Member (A)