

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

- 1) O.A. NO.1649/2001
- 2) O.A. NO.1650/2001
- 3) O.A. NO.1651/2001
M.A. No.1403/2001

This the 28th day of January, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

O.A. NO.1649/2001

1. Birender Singh S/O Rampujan Singh,
4/33, Panchkuyan Road, Mandir Marg,
New Delhi-110001.
2. Jai Bhagwan S/O Raghunath,
RZ-42-C, Gali No.06,
Gitanjali Park, West Sagarpur,
Delhi-110046.
3. Bhagwant Singh S/O Bishan Singh,
House No.614, Sec.7,
Pushp Vihar, M.B.Road,
New Delhi-110017.
4. Shyam Babu S/O Nathu Ram,
H.No.226 Rajput Mohalla,
Ghonda, Delhi-110053. Applicants

O.A. NO.1650/2001

1. O.P.Bansal S/O Indraj Singh,
A-8A, Kiran Garden,
Hanuman Mandir Road,
Uttam Nagar, Delhi-110059.
2. Smt. K.Badlani W/O Srichand Badlani,
B-1/328, Janakpuri,
New Delhi-110058.
3. Lakshman Singh S/O Madhoo Singh
B-67, New Usmanpur,
Delhi-110053.
4. Santosh S/O Pyare Lal,
C-39, Minto Road,
ND-110006.
5. Smt. Vinod W/O I.R.Anand,
C-5-D/73-A, Janakpuri,
ND-110058.

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6. Smt. Saranjeet Kaur Bindra,
W/O LT.S.P.S. Bindra,
F/22 Road No.04, Andrews Ganj,
New Delhi-49.
7. Smt. Manju Roy W/O S.Roy,
N-561, Sector-25, Jalvayu Vihar,
Noida-201301.
8. Smt. Nancy Tirkey W/O Fulgence Tirkey
Sec-3, 952, R.K. Puram,
New Delhi.
9. Smt. C.P. Sood W/O V.K. Sood,
G-1/799, Sarojini Nagar,
New Delhi-110023.
10. Smt. Kamlesh W/O C.L. Virmani,
Flat No.134, Plot No. N4, I.P. Extn.
Dhruva Apptt, Patparganj,
New Delhi-92.
11. Smt. Surinder Bhandari,
W/O Jasbir Singh Bhandari,
C-316, Sarojini Nagar,
New Delhi-110023.
12. Smt. C.V. Sharma,
W/O Shri Vijay Sharma,
I-429, Sarojini Nagar,
New Delhi-110023.
13. Miss P.R. Bahel D/O H.C. Bahel,
217, Kalyan Vihar,
Delhi-110009.
14. Om Prakash S/O LT Hira Lal,
12/110, Dev Nagar, Govt. Qtr.,
New Delhi-110005.
15. Karam Pal Bhagat S/O Baiju Bhagat,
398, Sector-2, Sadiq Nagar,
New Delhi-110049.
16. R.P. Khurana S/O LT R.J. Khurana,
6/213 Geeta Colony,
Delhi-110031.
17. Smt. Malti Duggal, W/O R.K. Duggal,
J-6/15, DLF, Phase.II,
Gurgaon, Haryana.
18. R.N. Sharma S/O LT. G.R. Sharma,
22/1056, Lodi Colony
New Delhi-110003.
19. Smt. Varsha Malhotra
W/O P.C. Malhotra,
8-B Krishna Puri,
Gali No.10, Near Tilak Nagar,
New Delhi-110018.

... Applicants

O.A. No.1651/2001

1. Anwar Ali S/O LT Amir Ali,
B-307, Khyala Colony,
New Delhi-110018.
2. Miss Indira Devi D/O Banarsi Das
F-110, Moti Bagh-I
New Delhi-110021.
3. Miss Saroj Kumari D/O LT.Gurdas Ram,
S-314, Sarojini Nagar,
New Delhi-110023.
4. Smt. Santosh Sharma
W/O D.D. Sharma,
Flat No.147-A, Block-B,
PKT.U&V, Shalimar Bagh,
New Delhi-110052.
5. Jagdish Lal S/O LT Gurbax Singh
C-632, Sarojini Nagar,
New Delhi-110023.
6. Smt. Usha Nagpal W/O S.K.Nagpal,
F-328, Vikaspuri,
New Delhi-110018.
7. Chetan Anand S/O C.J.Rijhwaniy,
C-3/195, Lodi Colony,
New Delhi-110003.
8. Smt. Rita W/O S.N.Wadhera,
D-182, Moti Bagh-I,
New Delhi-110021.
9. Smt. Kamlesh Dhingra W/O Y.P.Dhingra,
3/55, Perdhan Market,
Nirankari Colony, Delhi-110009.
10. Nihal Singh S/O Chiranji Lal,
465, Sector 4, Timarpur,
Opp. B.R.Hospital,
Delhi-110054.
11. Smt. Radha Rani W/O Vinod Kumar,
G-113, Sarojini Nagar,
New Delhi-110023.
12. Smt. Rajesh Malhotra W/O S.K.Malhotra,
450, Dhruva Apartment,
Patparganj, I.P.Extn.,
Delhi-110092.
13. Smt. Savita Kesar W/O Ramesh Kesar,
B-5/357, Sector 8, SFS Rohini,
Delhi-110085.
14. Darshan Singh S/O Sardar Gurbax Singh,
WZ-15/C-3, Krishna Puri,
Tilak Nagar Area,
New Delhi-110018.

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15. Nirmal Khan S/O Noria Khan,
WT/18-E2, Gali No.4,
Baljit Nagar,
New Delhi-110008.
16. Lachman Singh S/O Kishori Lal,
S-2/45/3D, Gol Market,
New Delhi-110001.
17. Smt. Kamlesh Deed W/O Gurinder,
1895, Laxmibai Nagar,
New Delhi-110023.
18. Dinesh Kumar S/O Prahlad Sharma,
Vill. Sadullapur,
P.O. Badpura,
Distt. G.B.Nagar (UP).
19. Lal Babu Mehto S/O Sheoji Mehto,
Qr. No.329, Sec.2, Type-II,
Sadiq Nagar, New Delhi-110049.
20. Harpal Singh S/O Lekh Ram,
E-30, Gali No.12,
Mandawali, Fazalpur,
Delhi-110092.
21. Mahesh Kumar S/O Jagan Lal,
Vill. Sadullapur,
P.O. Vaidpura,
Distt. G.B.Nagar (UP).
22. Smt. Swarn Kanta W/O Harbhajan Lal,
H.No.162, Arjun Nagar,
P.O.S.J. Enclave,
New Delhi-110029.
23. Miss Meena Aswal D/O R.S.Aswal,
Qr. No.135, Sec.5, R.K.Puram,
New Delhi-110022.
24. Smt. Rajkishori John W/O A.John,
20-C, Sector 5, Pushp Vihar,
New Delhi-110017.
25. Sitaram-II S/O Ram Prasad,
H-412, Kalabdi Marg,
DIZ Area, New Delhi.
26. K.C.Verma S/O D.R.Verma,
71, Ali Ganj, Lodi Road,
New Delhi-110003.
27. J.P.Sharma S/O D.C.Sharma,
RZ-4D, Gitanjalai Park,
Gali No.7, West Sagar Pur,
New Delhi-110046.
28. Narender Kumar S/O Somdutt Sharma,
Vill. Sadullapur,
Distt. G.B.Nagar (UP).

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29. Kanwar Singh S/O Sujan Singh,
E-264, East Vinod Nagar,
Delhi-110091.

30. Sushil Kumar-II S/O Jogi Prashad,
RZ-E-54, New Roshan Pura,
Najafgarh, Delhi-110043.

31. Smt. Gauri Devi W/O Lal Singh,
D-632, Sarojini Nagar,
New Delhi-110023.

... Applicants

-versus-

1. Union of India through
Secretary, Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.
2. Secretary,
Dept. of Personnel & Training,
North Block, New Delhi.
3. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.

... Respondents
(in all the OAs)

Advocates : Shri Deepak Verma, for Applicants
Shri S.K.Gupta, for Respondents

ORDER (ORAL)

Hon'ble Shri V.K.Majotra. Member (A) :

The issues and points of law being identical in these matters, they have been taken up together for disposal by a common order.

2. Basically, the applicants in these OAs are Data Entry Operators (DEOs) with the difference that in OA No.1649/2001, applicants are functioning as DEOs 'C' and 'B'; those in OA No.1650/2001 are DEOs 'E'; and applicants OA No.1651/2001 are DEOs 'D'.

2. The applicants in these OAs seek benefit of various judgments passed by this Tribunal including in OA No.2289/1998, Mrs. S.K.Vij & Ors. v. Union of India &

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Ors., decided on 20.10.2000 and reported as 2001 (1) ATJ 114 as well as the Full Bench judgment dated 31.7.2000 in OA No.2369/1999, Babu Lal & Ors. v. Union of India & Ors., where refixation of pay has been allowed to Electronic Data Processing (EDP) personnel w.e.f. 1.1.1986 instead of 11.9.1989 with consequential benefits. It is stated that these applicants are covered by the same O.M. of Department of Expenditure, Ministry of Finance as in the case of applicants in the aforesaid OAs. The respondents have rejected the demand of the applicants for refixation of their pay from 1.1.1986 instead of 11.9.1989 vide impugned order dated 7.6.2001 (Annexure A-1).

3. The learned counsel of respondents placing reliance on order dated 21.7.1997 in OA No.1884/1996 Lalita Prasad Pal & Ors. v. Union of India & Ors., contended that a similar application as the present OAs was not found to be having any merit and was dismissed because on the basis of the recommendations of the Fourth Central Pay Commission, respondents had appointed a committee to rationalise pay structure of the EDP staff. On the basis of the recommendations of the committee, respondents by order dated 11.9.1989 introduced new pay structure for various posts in the Ministries/Departments of the Government. They were required to carry out review of the existing EDP posts in accordance with the recruitment rules and they were also advised to adopt model recruitment rules being revised by the DOPT. The learned counsel stated that after careful consideration of the recommendations made by the committee, the

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Government introduced a pay structure for EDP posts w.e.f. 11.9.1989 and that the same has no infirmity in it.

4. The learned counsel of the applicants particularly drew our attention to paragraphs 3, 7, 8 and 9 of the Full Bench judgment in Babu Lal (supra) in which reference was made to a large number of judgments passed by this Tribunal which had granted the relief of revised pay scales w.e.f. 1.1.1986. The Full Bench has referred to the decision of the Supreme Court in the case of Union of India & Ors. v. Secretary, Madras Civil Audit and Accounts Association & Anr., (1992) 20 ATC 176, in which the Apex Court was concerned with O.M. dated 12.6.1987 issued by the Department of Expenditure. The question which had arisen for consideration before the Supreme Court was whether benefit of O.M. dated 12.6.1987 issued by the Department of Expenditure was to be given effect from 1.4.1987 or from 1.1.1986. The aforesaid O.M. was based on the recommendations of the Fourth Central Pay Commission and consisted of two parts. The first part recommended corresponding scales of pay for the existing posts in the accounts wing giving effect from 1.1.1986. The other part related to the pay scales of posts of Accounts Officers which were newly created promotional posts. The Supreme Court considered the grant of pay scales in respect of posts which had been newly created; the same did not relate to posts which were already in existence. The decision contained in O.M. dated 12.6.1987 was found to be distinguishable. The Supreme Court held that the aforesaid decision related to posts

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which were newly created promotional posts. As far as the applicants before the Full Bench were concerned, no new posts had been created. Their posts were merely re-designated as DEOs/Data Processing Assistants (DPAs). The Supreme Court declared that the appellants were entitled to the designation of DPAs Grade-II (also called earlier as Grade 'D') w.e.f. 1.1.1986 and in the grade of Rs.5000-8000 w.e.f. 1.1.1996. The Full Bench held that the applicants in the O.A. were entitled to the benefit of the aforesaid O.M. dated 11.9.1989 w.e.f. 1.1.1986 with consequential benefits. The learned counsel further stated that in a subsequent order dated 27.11.2000 in OA No.1763/1999, Mrs. Urmil Jaitley & Ors. v. Secretary, Department of Statistics & Ors., in which relying on the Full Bench judgment (supra) applicants were held entitled to the respective pay scales w.e.f. 1.1.1986 instead of 11.9.1989. The learned counsel of the applicants referred to the submissions of the respondents in OA No.2346A/1995, Y.D.Sharma & Ors. v. Union of India & Ors., which was disposed of vide order dated 18.11.1999, stating that the respondents had submitted that the case therein was not a case of ante dating the implementation of the revised scales from 11.9.1989 to 1.1.1986 but was a case of restructuring and re-designation of posts. He further submitted that by the impugned order the Department of Expenditure had rationalised pay scales of DEOs Grades 'A', 'B', 'C' and 'D' and fixed the date as 11.9.1989. The learned counsel stated that this submission of the respondents had been squarely dealt with in the Full Bench order (supra). We find that the submissions made by the respondents in OA

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No.2346A/1995 were considered in the Full Bench order in which, after detailed discussion, the applicants were held entitled to the benefit of aforesaid O.M. of 11.9.1989 w.e.f. 1.1.1986. The learned counsel also referred to decision of Bombay High Court (Nagpur) in Maharashtra State Medical Teachers' Association & Ors. v. State of Maharashtra & Ors., 1988 (6) SLR 377, in which discrimination in fixing pay scales of teachers of all faculties was held to be violative of Articles 14 and 16 and it was further held that there was no reason why the Government should not bear the liability on account of expenditure due to revision of pay scales of the teachers of all faculties without any exception.

5. In our considered view, if one has regard to the Full Bench judgment in Babu Lal (supra) and the orders cited on behalf of the applicants, the applicants in the present OAs are identically placed as applicants in those OAs who were granted the benefit of revised pay scales w.e.f. 1.1.1986, particularly keeping in view that the applicants have not been holding any newly created posts and were holding posts which had been already in existence with a change in the designation only. These OAs are fully covered by the decision of the Full Bench in Babu Lal (supra).

6. Accordingly, these OAs succeed and are allowed. The impugned order dated 7.6.2001 (Annexure A-1) is quashed and the respondents are directed to grant the applicants the revised pay scales with effect from 1.1.1986 instead of 11.9.1989 and re-fix their pay

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accordingly and disburse the consequential benefits from such re-fixation within a period of three months from the date of receipt of a copy of this order. No costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Ashok Agarwal

(Ashok Agarwal)
Chairman

/as/