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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.3047/2001

This the 10th day of May, 2002.

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

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. M.S.A.Khan S/O M.K.Khan
2. Tika Ram S/O Sri Ram
3. Surender Kumar S/O Jiya Ram
4. Tara Chand S/O Hari Charan
5. Mangal Ram S/O Puram Chand
6. Moti Lal S/O Puran Singh
7. Kanwar Lal S/O Bhulay Ram
8. Arvinder Singh S/O Balbir Singh
9. Kailash Kumar S/O Pyare Lal
10. Umanand S/O Bachhi Ram
11. Harish Chander S/O Pritam Dass
12. Rajiv Lochan S/O Krishan
13. Dal Chand S/O Kaniya Lal
14. Attam Prakash S/O Kundan Lal
15. Rajesh Kumar Rathee S/O J.R.Rathee
16. Surender Kumar Sharma S/O Babu Ram Sharma
17. Manohar Lal S/O Nihal Chand
18. Shyam Singh S/O Bhagirath Singh
19. P.J.Thomas S/O P.O.Joseph
20. Satya Dev S/O Pirthi Singh
21. Ajit Singh S/O Dalip Singh
22. Chuni Lal S/O Bhagwana Singh
23. Daulat Singh S/O Bhoj Raj Singh
24. Ram Kaur S/O Rati Ram
25. Shri Pal S/O Arishal Singh
26. Yogender Kumar S/O Nathu Singh
27. Bhim Singh S/O Bal Ram

(All are working as Skilled Workers
in different trades under G.E.,
New Delhi, Delhi Cantt.)

... Applicants

(By Shri Yogesh Sharma, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
Govt. of India, New Delhi.
2. Dy. Secretary to Govt. of India,
Ministry of Defence, New Delhi.
3. Engineer-in-Chief,
MES, Army Headquarters,
ENC Branch, Kashmir House,
New Delhi-110011.
4. Garrison Engineer,
MES, New Delhi,
Delhi Cantt-10.

... Respondents

(By Shri R.P.Aggarwal, Advocate)

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O R D E R (ORAL)

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

Applicants, 27 in number, are skilled workers working in the office of respondent No.3. On being aggrieved by the fixation of their pay in the scale of Rs.800-1150 instead of 950-1500, they had approached this Tribunal through OA No.1657/2000 which was decided on 27.3.2001 (Annexure A-5) with the following directions to respondents :

"4. If the aforesaid representation has not yet been disposed of by respondents, the OA is disposed of with a direction to respondents to dispose of the aforesaid representation in accordance with rules and instructions and judicial pronouncements including pronouncements referred to in para 1 above, under intimation to applicant No.1 within three months from the date of receipt of a copy of this order.

5. If any grievance still survives it will be open to applicants to agitate the same through appropriate original proceedings in accordance with law, if so advised.

6. The O.A. stands disposed of in terms of para 4 & 5 above. No costs."

2. In compliance of the aforesaid orders of the Tribunal, respondents have passed order dated 27.7.2001 (Annexure A-1) whereby the representations of applicants have been disposed of with the direction that applicants "are entitled for fixation of their pay in scale of Rs.950-1500 with effect from the date of their initial appointment. The pay of the applicants shall be fixed notionally and actual arrears shall be paid only from the date of filing of the OA". Aggrieved by the non-payment of arrears of pay in the grade of Rs.950-1500 from the



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dates of initial appointments, applicants have approached this Tribunal through this OA seeking a direction to respondents to arrange to make the aforesaid payments of arrears of pay right from the dates of their initial appointments.

3. Shri Yogesh Sharma, learned counsel of applicants, stated that applicants have been discharging the same duties and responsibilities as of the skilled workers from the beginning and similarly placed persons have been granted the pay scale of Rs.950-1500 from the dates of initial appointments. Learned counsel stated that respondents have held in Annexure A-1 that applicants are entitled for fixation of their pay in scale of Rs.950-1500 with effect from the dates of their initial appointments but have not allowed arrears from the dates of their initial appointments. Learned counsel contended that as stated in paragraph 4.8 of the OA, similarly situated persons who were appointed in 1989 have been granted pay scale of Rs.950-1500, while applicants' pay was reduced from the grade of Rs.950-1500 to Rs.800-1150. Learned counsel relied on **Selvaraj v. Lt. Governor of Island**, JT 1988 (4) SC 500 in which it was held that an employee should have been paid salary in higher pay scale of that post during the period he actually worked in that capacity.

4. Learned counsel of respondents, Shri R.P. Aggarwal, stated that vide Annexure R-I dated 11.1.1985, direct recruitment to the skilled grade (Rs.260-400) ceased and all direct recruitment in the upgraded trades

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was directed to be made in the semi-skilled grade (Rs.800-1150) and on satisfactory completion of two years service in that grade the employees were to be considered for promotion to the skilled grade (Rs.950-1500). He further stated that applicants were initially appointed in the pay scale of Rs.800-1150 and then their pay scale was enhanced to Rs.950-1500 on completion of two years of service. He further stated that whereas applicants were appointed in the years 1987/1988 in the pay scale of Rs.800-1150, they made the representation against the scale only on 31.7.2000, after 12/13 years of service and thus their prayer is barred by limitation.

5. The objection relating to limitation is rejected as the claim to be paid correct salary computed on the basis of proper pay fixation is a right which subsists during the entire tenure of service. In this behalf, we rely on **M.R.Gupta v. Union of India**, 1995 (5) SCALE 29 (SC).

6. A perusal of Annexure A-1 establishes that respondents have held applicants to be entitled for fixation of their pay in the scale of Rs.950-1500 with effect from the dates of their initial appointments. If that be so, respondents cannot deny payment of actual arrears right from the inception of their service. They have not indicated any reasons to deny arrears to applicants from the dates of their initial appointments and have ordered that their pay would be fixed notionally and actual arrears would be paid only from the date of filing of the OA. Respondents have not refuted the


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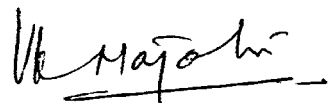
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contention of applicants regarding according the grade of Rs.950-1500 from the dates of their initial appointments to similarly situate persons. Applicants have been performing same duties and responsibilities from the beginning of their service. The higher scale has not been granted to them for any higher duties and responsibilities. Having held in Annexure A-1 that applicants are entitled for fixation of pay in the scale of Rs.950-1500 with effect from the dates of their initial appointments, respondents have no justification in denying the actual arrears to them from the dates of their initial appointments.

7. Having regard to the reasons recorded and discussion made above, we quash Annexure A-1 dated 27.7.2001 to the extent that not only that applicants shall be entitled for fixation of their pay in scale of Rs.950-1500 with effect from the dates of their initial appointments, they shall also be paid actual arrears from the dates of their initial appointments. These directions shall be carried out by respondents within a period of three months from the date of communication of these orders.

8. The OA is allowed in the above terms. No costs.


(Snanker Raju)
Member (J)


(V. K. Majotra)
Member (A)

/as/