

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1426/99
MA-1248/99

New Delhi this the 8th day of January, 2001.

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

1. Sh. Hari Krishan Joshi,
S/o Sh. Shyamanand Joshi,
203, Milap Nagar,
Roorkee.
2. Sh. Parminder Singh,
S/o Sardar Amrik Singh,
Saroop Singh St.,
Gurdwara Road,
Saharanpur.
3. Sh. Mathura Prasad Dhyani,
S/o Sh. Arya Datt Dhayani,
85B/436 Subhash Nagar,
Roorkee.
4. Sh. Niranjan Singh,
S/o Sh. Sher Singh,
49, Kirti Nagar,
Roorkee Cantt.
5. Sh. Romesh Chander Sharma,
S/o Sh. Atma Ram Sharma,
10/550 Kaystan,
Saharanpur.
6. Sh. Ajmer Singh,
S/o Sh. Bachan Singh,
H.No. 165, Sainaik Cly.,
Roorkee.
7. Sh. H.K. Malik,
S/o Sh. S.R. Malik,
84 Sot Street,
Roorkee.
8. Sh. Brij Mohan,
S/o Sh. B.D. Dhasmana,
405 Railway Road,
Ganeshpur,
Roorkee.
9. Sh. K. Ramachandran,
S/o Sh. K.S. Nair,
Jain Building,
Kanjarpur,
Roorkee.
10. Sh. Phool Singh,
S/o Sh. Kundan Singh,
450 Ganeshpur,
Roorkee.

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11. Sh. Amir Ahmed,
S/o Sh. Nazir Ahmed,
131 Village Lisari,
Meerut.

12. Sh. Harish Chand,
S/o Sh. Shriram Banga,
K-41 Hikakat Nagar,
Saharanpur.

13. Sh. Ramesh Kumar,
S/o Sh. Chhote Lal,
Vill. Kanjarpur,
Roorkee.

14. Sh. Rajender Prasad,
S/o Sh. Jiva Nand,
H.No. 4, Milap Nagar,
Roorkee.

15. Sh. Chanchal Singh,
S/o Sh. Kalu Singh,
106, Milap Nagar,
Roorkee.

16. Sh. Sukhbir Singh,
S/o Sh. Ram Chander,
Vill. Kanjarpur,
Roorkee.

Applicants

(through Dr. D.C. Vohra, Advocate)
Versus

1. Union of India through,
the Secretary,
Ministry of Defence,
North Block,
New Delhi-11.

2. Engineer-in-Chief's Branch,
Army Headquarters-DHQ,
New Delhi-11.

3. The Commandant,
Bengal Engrs. Group & Centre
Hqrs., Roorkee. Respondents

(through Sh. VSR Krishna, Advocate)

ORDER (ORAL)

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)

Applicants impugn respondents orders dated
09.10.98 (Annexure A2) and order dated 28.10.98

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(Annexure A3). They also challenge the departmental note dated 28.08.98 (Annexure A1). They seek the benefit of the Central Administrative Tribunal Bangalore Bench judgement dated 15.10.1986 in OA Nos. 788-795/86 (A.R. Anand & Ors. Vs. U.O.I.) and CAT Bombay Bench judgement dated 21.07.1994 in OA-865/89 (Dattu Ganpat Darpe & 13 Ors. Vs. U.O.I.&Ors.). They also seek placement in the scale of Rs. 330-560 prior to 01.01.86; Rs.1350-2200 w.e.f. 01.01.86 and the scale of Rs. 4500-7000 w.e.f. 01.01.96 with arrears and interest @ 18% per annum together with cost.

2. We have heard applicants' counsel Dr.D.C. Vohra and respondents' counsel Sh. VSR Krishna.

3. As in Darpe's case (supra), two of the ~~present~~ applicants are diploma holders, while remaining applicants are non-diploma holders. The only reason why respondents have denied the benefits of the Tribunal's order in Anand's case (supra) and Darpe's case (supra) to the applicants in the present O.A. is that the 5th Pay Commission had considered the claims of the applicants, who are Civilian Instructor Foremen in the Ministry of Defence, in the scale of Rs. 1350-2200 w.e.f. 01.01.86 pursuant to the Tribunal's order, and had rejected the same. In the impugned note dated 28.08.96, it has specifically been recorded that the 5th Pay Commission had noted that pursuant to the Tribunal's order in Anand's case and Darpe's case (supra) the

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aforesaid pay scale of Rs. 1350-2200 had been granted to those applicants who were Civilian Instructor Foremen, and had recommended that the same should be continued to them also, but should not be extended to the other Civilian Instructor Foremen such as the present applicants. It is also noted that nothing has been shown to us to establish that the aforesaid rulings in Anand's case and Darpe's case have been stayed/modified/set aside.

3. Prima facie this creates a invidious distinction between the present applicants, who had been granted the scale of Rs. 1350-2200, and those who pursuant to the Tribunal's order referred to above have been granted the scale of Rs. 1350-2200 w.e.f. 01.01.86. Manifestly applicants are thus subjected to hostile discrimination, which is violative of Articles 14 & 16 of the Constitution, and it is also clear that the same category of employees, holding identical posts, under the same employer, cannot be granted two separate pay scales, even ^{if} in respect of one set of employees, that pay scale is personal to them.

4. As the present applicants had been clearly discriminated against and such discrimination is violative of Articles 14 & 16 of the Constitution, the O.A. succeeds and is allowed to the extent that respondents are directed to extend the benefits of the Tribunal's order dated 21.07.94 in OA-865/89 (Dattu

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Ganpat Darpe's case) to applicants, such that their pay is revised from 01.01.73, in the scale of Rs. 380-640 and again from 01.01.86 in the scale of Rs. 1350-2200 on notional basis, and from 01.01.96 in the scale of Rs. 4500-7000, but restricting the payment of actual arrear one year prior to this O.A. which was filed on 26.04.99 i.e. 01.05.98.

5. The above directions should be implemented within three months from the date of receipt of a copy of this order. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member(J)

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(S.R. Adige)
Vice-Chairman(A)

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