

Central Administrative Tribunal, Principal Bench

Original Application No.41 of 1996

New Delhi, this the 5th day of October, 1999

Hon'ble Mr.R.K.Ahooja, Member (Admnv)  
Hon'ble Mr.Rafiq Uddin, Member (Judl)

48

1. Y.K.Rastogi, son of Sri G.S. Rastogi, resident of 32/2, Gun Factory Area, Lucknow Cantt-226002
2. M.D.Chowdhary, son of Sri Dinanath Chowdhary, resident of 26, Cariappa Road, Lucknow Cantt.
3. M.L. Batra, son of Sri A.N.Batra, resident of B/593, Rajajipuram, Lucknow.
4. V.P.Kapoor, son of Late K.D. Kapoor, resident of GE B/R Chakeri, Kanpur.
5. S.B.L.Mathur, son of Late T.B.L. Mathur, resident of P/33/3, MES Quarters, Gun Factory Area, Post Office Dilkusha, Lucknow Cantt-226002
6. M.K.Srivastava, son of Late G.P. Srivastava, resident of AGE Egn.(E) care of GE(E), Lucknow
7. R.Ahmad, son of Late H.M. Shamsuddin, resident of P/31/4, MES Quarters, Gun Factory Area, Post Office Dilkusha, Lucknow Cantt-226002
8. R.K.Awasthi, son of Sri G.P. Awasthi, resident of 88 Khurshed Bagh, Lucknow
9. A.B. Bhowmik, son of Late N.B. Bhowmik, resident of P/30-5 N, Gun Factory Area, Lucknow Cantt-226002
10. R.S. Khattar, son of Sri Kanshi Ram Khattar, resident of P/33/6, Gun Factory Area, Lucknow Cantt-226002
11. H.N.Hingone son of Late Vanakrinatri Hingone, resident of 146/3, Thela Ground, Lucknow
12. N.K.Seth son of Late R.C. Seth, (ACWE E/M), Commander Work Engineer (Airforce), Chakeri, Kanpur

06

13. M.I.Husain, son of Shri Mirza Mumtaz Husain, resident of AGE B/R GE Kanpur.

14. S.K.Saxena, son of Sri S.S.Lal, resident of AGE E/H, GE Kanpur

15. P.D. Mehta, son of Sri D.S. Mehta, resident of AGE B/R GE Kanpur

16. R.K. Ghai, son of Late P.N. Ghai, resident of SO III E/M CEL Z, Dilkusha, Lucknow Cantt

17. Sagar Singh, son of Late Tola Ram Singh, resident of 32/4, Gun Factory Area, Lucknow Cantt-226002

18. Suresh Kumar Nigam, son of Late S.L. Nigam, r/o Care of Sri R.C.Nigam, 187, Bahadurganj, Alld.

19. Suresh Chand Agarwal, s/o Late D.S. Agarwal, resident of care of Sri O.P. Sanghal, 58, Old Ganeshganj, Lucknow

....Applicants

(By Advocate - Shri A.K.Bhardwaj)

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.

2. Engineer-in-Chief, Army Headquarters, Kashmir House, New Delhi.

....Respondents

(By Advocate - Shri V.S.R.Krishna)

O R D E R (ORAL)

By Hon'ble Mr.R.K.Ahooja, Member(Admnv)

The applicants herein are working as Superintendents Grade-I and II in the Military Engineering Service. They are aggrieved by the introduction of All India Defence Services of Engineers Rules, 1991 notified on 9.7.91 which they allege to be discriminatory to them. They also seek a direction to the respondents to grant them the revised

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pay scale of Rs.550-900 with effect from 1.1.73 on the basis of the recommendations of the 3rd Pay Commission.

50

2. The claim of the applicants has been contested by the respondents.

3. This O.A. was originally before the Lucknow Bench of the Tribunal. Since similar matters were pending before the Principal Bench, this O.A. was transferred from the Lucknow Bench to the Principal Bench. However as there was also an issue for grant of higher pay scale in this case, it was delinked from the batch of OA No.537/95 and other connected matters and is being heard separately.

4. In so far as challenge to the vires of All India Defence Services of Engineers Rules, 1991 is concerned, the issue was decided by the Tribunal's order dated 11.9.96 in O.A.537/95 and other connected matters. The challenge to the aforesaid rules was rejected. The order of the Tribunal was also confirmed by the Supreme Court.

5. We are now therefore only to consider the prayer of the applicants in regard to the grant of pay scale of Rs.550-900 with effect from 1.1.73 notionally (the payments being made from 1.1.77), instead of 26.7.82. We have heard both the learned counsel.

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6. According to the applicants, the respondents have introduced a Class-II cadre in Military Engineering Service and upgraded the post of Superintendent Grade-I but they had taken five years in doing so. We find that the impugned orders were issued in 1982 while the O.A. has been filed in 1993. We therefore find that the claim of the applicants is clearly time barred. Even on merits, we find that the 3rd Pay Commission had revised the pay scale into two categories of Rs.425-700 and 550-900. The respondents' department had taken the case with the Government to increase the pay to Rs.550-900. Since this was an improvement on the pay scale recommended by the Pay Commission, the effect of such improvement was made with prospective effect.

7. We therefore do not find any merit in the claim of the applicants that this could have been done notionally from 1.1.73 and effective from 1.1.77. In the result, the OA is dismissed without any order as to costs.

*Rafiq Uddin*  
( Rafiq Uddin )  
Member(Judl)

*R.K. Aheer*  
( R.K. Aheer )  
Member(Admnv)

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