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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A.No. 241 OF 1994

New Delhi, this the 26th day of July 1999.

Hon'ble Mr. V. Ramakrishnan, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

1. Shri Narain Dass
S/o Late Shri Lila Ram
R/o A5B/180, Janakpuri,
New Delhi - 110 058.
2. Shri Rohtas Chander Sharma
S/o Shri Tika Ram
R/o 9/1, Poultry Farm (URI Enclave)
Delhi Cantt. 110 010.
3. Sardar Manjeet Singh
S/o Shri Iqbal Singh Bedi
R/o MS-106, Hari Nagar,
New Delhi - 110 064.
4. Shri Jaipal Singh
S/o Late Shri Lakhpat Singh
R/o H. No.P-4/A, (URI Enclave)
Delhi Cantt. 110 010
5. Shri Subhash Chander Anand
S/o Late Shri Madan Lal Anand
R/o T-16/1, URI Enclave,
Delhi Cantt. 110 010
6. Sardar Joginder Singh
S/o Shri Lal Singh
R/o S-1/135, Old Mahavir Nagar,
New Delhi - 110 018
7. Shri Laxmi Saroop
S/o Shri Tak Chand Gaur
R/o 3/3, Mandir Marg,
Delhi Cantt. 110 010

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8. Shri Nafe Singh
S/o Shri Hari Singh
R/o Vill. P.O. Dichaon Kalan,
New Delhi 110 043
9. Shri Ved Parkash
S/o Shri K.R. Narula
R/o C-4F/210, Janakpuri,
New Delhi - 110 058
10. Sardar Charan Singh
S/o Late Shri Bhagh Singh
R/o 17/A, URI Enclave
Delhi Cantt. 110 010
11. Shri Shri Krishan
S/o Late Shri Jagannath Parsad,
R/o WZ-124, Plot No.335, Chand Nagar,
New Delhi - 110 018
12. Shri Ram Niwas
S/o Shri Ram Parsad,
R/o 134/Pocket-3, Paschim Puri
New Delhi - 110 063.
13. Shri Ram Babu Sharma
S/o Pt. Devi Lal
R/o 16/660, Nai Basti
Gurgaon (Haryana)
14. Shri Tilak Raj (MHA & AC No.2)
S/o Late Shri Nihal Chand
R/o B-25, Najaf Garh Road, Ganesh Nagar,
New Delhi
15. Shri Baldev Raj (MHA & AC No.2)
S/o Late Shri Bano Lal
R/o 3/50 Block, Back side, Subhash Nagar,
New Delhi
16. Shri J.R.Kapoor
S/o Late Shri R.L. Kapoor
R/o M-62 Prem Nagar, Uttam Nagar,
New Delhi - 110 059
17. Shri Ram Swaroop
S/o Shri Suran Singh
R/o H.No.188A, Madhu Vihar,
New Delhi

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18. Shri Attar Singh
S/o Late Shri Nathu Ram
R/o Village Aya Nagar, P.O. Arjun Garh
New Delhi
19. Shri Ved Bhushan Puri
S/o Sh. R.N. Puri
R/o P-20/5, URI Enclave
Delhi Cantt. 110 010
20. Shri Munshi Ram
S/o Late Shri Jhooter Singh
R/o Vill. Kamruddin Nagar, P.O. Nangloi,
Delhi
21. Shri Surender Moha
S/o Shri Devi Dutt
R/o 68/A, MES Qtrs. Ordnance Depot,
Shakurbasti, Delhi.
22. Shri Prem Chand Gupta
S/o Shri Atma Ram
R/o 68/1, MES Qtrs. Ordnance Depot
Shakurbasti, Delhi
23. Shri C.M. Bhadela
S/o Shri S.R. Bhadela
R/o 66/2, MES Qtrs. Ordnance Depot
Shakurbasti, Delhi
24. Shri Inder Mal
S/o Late Shri Sita Ram,
R/o RZ-16A/3, Indira Park
New Delhi
25. Shri Raghubir Singh
S/o Late Shri Jwala Singh
R/o RZ-673/4, Sad Nagar, Part-II
Gali No.19, Palam Colony
New Delhi-110 045
26. Shri Kapil Kumar Beri
S/o Shri K.L. Beri
R/o BA/88B, Janakpuri,
New Delhi-110 058
27. Shri Paramjit Singh
S/o Shri Kabir Singh
R/o P-109/6, Kabul Line, Delhi Cantt.



28. Shri Om Parkash
S/o Late Shri Ishwar Dass Vora
R/o P-109/7, Kabul Line,
Delhi Cantt. 110 010.
29. Shri P.V. Nair,
S/o Late Shri P.S. Nair
R/o C-10, Kanul Line
Delhi Cantt. 110 010
30. Shri Sudesh Kumar
S/o Shri Shyam Lal
R/o P-58, Kabul Line,
Delhi Cantt. 110 010
31. Shri Bhagar Singh Bhist
S/o Shri Khushal Singh
R/o Qtr.No. 170/3, CVD Line,
Delhi Cantt - 110 010

Applicants

(By Advocate: Shri S.M. Rattanpaul)

VERSUS

1. Union of India
Ministry of Defence
Through its Defence Secretary,
South Block, New Delhi.
2. The Engineer-in-Chief,
Army H.Q.
Rajaji Marg, Kashmir House,
New Delhi.
3. Chief Engineer
Head Quarters, Western Command,
Engineer Branch, Chandi Mandir
Chandigarh.

Respondents.

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

ORDER (Oral)

Hon'ble Mr.V. Ramakrishnan, Vice Chairman (A)

The applicants are presently holding the post of Senior Electrician HS-I, Senior Mechanic HS-I and Senior Mechanic (Refrigerators and Air Conditioning) HS-I. They are aggrieved by the stand of the respondents in not giving them the pay scale of Rs.1400-2300 w.e.f. 1.1.1986 which is the date from which the recommendations of the Fourth Pay Commission were implemented and corresponding revised scales as recommended by the Fifth Pay Commission.

2. Shri Rattanpaul, learned counsel for the applicants states that the applicants were initially appointed as Chargemen. He says that the duties of these categories involved supervision of the lower levels. According to him, this is evident from the letter dated 4.9.77, copy of which is annexed to the amended OA. He says that the question of reclassification of the various categories in the organisation was done by an Expert Classification Committee and an order was issued by the respondents on 24.6.87 by which the post of Charge Electrician was redesignated as Senior Electrician HS-I, Charge Mechanic as Senior Mechanic HS-I and Charge Mechanic (R & A), as Senior Mechanic (R&A) HS-I. They were given the pay scale of Rs.380-560. He further says that para 4 of this order says that duties of the post will be laid down by the Engineer-in-Chief. According to the charter of duties of E/M Industrial Personnel in MES, Annexure A-XVI the duties of Senior Electrician HS-I says inter alia that he will supervise the electrical works carried out through DEL and will be responsible for training of industrial staff under him. In the case of Senior Mechanic as at Item No. (N) he has to

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organise/supervise industrial workers for carrying out day to day works entrusted by his senior staff and in case of Sr.Mechanic (R&A) at item No.(E) he will be responsible to carry out precommissioning tests on A/C Plants and fill up tests sheets, evaluate COP and Air etc. The counsel says that this will clearly indicate that the posts of Sr. Electrician, Sr. Mechanic and Sr. Mechanic (R&A) are highly skilled posts and their job involved supervision over the subordinate staff. As per the decision of the Government on the Fourth Pay Commission recommendations technical supervisors should be given the scale of 1400-2300. According to the applicants, they were entitled to the higher pay scale of Rs.1400-2300 as they were functioning as supervisors. However, the respondents allotted them a lower scale. The matter was taken up by the JCM and finally went to the Committee of Ministers but they did not find any justification for granting them supervisory pay scale. According to the applicants, the respondents have not considered the point that these posts require qualification of three years diploma in Engineering. Learned counsel brings out that there are a number of other categories and out of 20 categories only these three categories are required to have higher qualifications. He says that some persons had approached the Jabalpur Bench of this Tribunal and the matter was considered and dismissed (OA 230/88) but according to Shri Rattanpaul, the relief sought for in that OA was different from that of the present applicants. He further states that the applicants before us challenged their redesignation as Sr.Electrician HS-I, Sr.Mechanic HS-I and Sr.Mechanic (R&A) HS-I. He also submits that the Fifth Pay Commission has not specifically dealt with these categories and the concerned authorities failed to effectively represent the matter either in the JCM or in the committee of Ministers suppressing the fact that the educational

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qualifications required for the posts held by the applicants as also for the next posts of Superintendent E/M Grade-II were the same i.e., 3 years diploma in Engineering.

3. Shri Krishna, learned counsel for the respondents submits that the issue raised in this case has already been concluded by the judgment of the Jabalpur Bench in OA 230/88, a copy of which is annexed to the reply as Annexure ~~A~~^{XII}-12. He says that there is no difference between the relief prayed for by the present applicants and that sought by the applicant, before the Jabalpur Bench. He says that the relief prayed for by the applicants in that OA was that they should be equated with supervisory staff and be granted the pay scale of Rs.1400-2300 as replacement scale which is sought by the present applicants also. He says that the applicants are holding industrial posts and their work is to be supervised by the Supdt. E/M Grade-II which has been categorised as non industrial and the said post carries the pay scale of Rs.1400-2300. He submits that nowhere in charter of duties of the ~~trade~~^{posts} senior Mechanic HS-I, Senior Electrician HS-I and Senior Mechanic (R&A) HS-I it has been prescribed that they will supervise the trademen working in the respective trades. All staff have to supervise some part of the work but that does not make them supervisory staff unless their functions specifically call for effective supervision of their subordinates. The applicants have been correctly fitted in the pay scale of Rs.1320-2040 as per the recommendations of the Fourth Pay Commission. He says that the request for revision of pay scale from Rs.1320-2040 to the pay scale of Rs.1400-2300 at par with chargeman of E/M was considered at appropriate level in the JCM council and Ministry of Defence and finally in the Committee of Ministers but the same was not accepted. In EME, CUD and UOD the lowest supervisory

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level post is of chagemen carrying the pay scale of Rs.1400-2300 and the applicants cannot be equated to them.

4. We have considered the submissions of both counsel and have also gone through the records.

5. The main issue raised in this case is whether the posts held by the applicants involved supervisory work or not. This matter was considered by the JCM and also the Committee of Ministers but they rejected the claim that these posts have a supervisory role. We also find from the reply statement of the respondents where they have enclosed the duty chart that nowhere it has been prescribed that they will supervise the trademen. The applicants have not been termed as Technical Supervisors and the pay scale of Rs.1400-2300 is not available to them. We also take note of the judgment of the Jabalpur Bench rendered in OA 230/88 on 8.3.94. In para 3 of this judgment it has been stated that it is not established from records that the applicants therein (who were identically situated), were holding the supervisory posts. The relief prayed for by the applicants in that OA that they may be equated with supervisory staff and granted the pay scale of Rs.1400-2300 was rejected. In the present case, the respondents have categorically stated that the lowest supervisory post is Supdt. EM/Grade-II in the scale of 1400-2300 which is above the post held by the applicants. The learned counsel for the applicant states that the respondents have admitted that the applicants are performing the duties of supervisors and therefore, and they are entitled for the scale of Rs.1400-2300 but this is not borne out and the respondents have categorically denied the same. We find that the judgment of the Jabalpur Bench rendered in OA 230/88 is fully

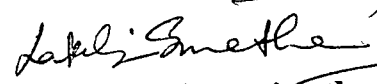
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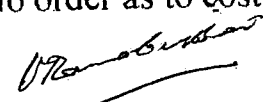
applicable to the present case. There is force in the submission of Shri Krishna that the matter is concluded by the decision of the Jabalpur Bench of this Tribunal and the present applicants can not reagitate the same before us. We hold that we can not grant the relief sought for.

6. Shri Rattanpaul states that the Fifth Pay Commission had made some recommendations for giving a higher pay scale to those possessing educational qualification of three years diploma in Engineering even though it has not specifically dealt with this category. He further states that a number of applicants are retiring shortly and they have not got any promotion in spite of having ^{more} 26 years of service.

7. In the light of the above submission, while we cannot grant the relief sought for, it will be appropriate for the applicants to make a detailed representation to the respondents within one month from the date of receipt of a copy of this order bringing out the recommendations of the Fifth Pay Commission relied upon by Shri Rattanpaul and also the absence of promotion prospects. If they do so, the respondents shall consider the matter taking into account the educational qualifications required for the post and the promotion prospects and come to an appropriate finding within four months from the date of receipt of that representation and communicate the decision immediately thereafter to the applicants.

8. The OA is disposed of with the above direction. No order as to costs.


(Mrs. Lakshmi Swaminathan)
Member (J)


(V. Ramakrishnan)
Vice Chairman (A)

Vtc.