

Central Administrative Tribunal, Principal Bench

Original Application No. 1701 of 2000
M.A. No. 2087/2000

New Delhi, this the 6th day of July, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)

1. Shri Jagdish Chand S/o Late Shri Amir Chand
R/o 426 Sector-IV, Timarpur,
Delhi-110 054.
2. Shri Bal Kishan S/o Late Shri Sarkar Singh
R/o H.No.304, Sector-IV, Delhi-110 054.
3. Shri Laxmi Dutt S/o Late Shri Shanti Swaroop
R/o 1051 (MS) Timarpur,
Delhi-110 054.

- Applicants

(By Advocate - Shri Y.R. Malhotra)

Versus

1. Union of India Service
through Secretary
to the Government of India, Ministry of Defence,
Defence Research & Development Organisation, DHQ
PO, New Delhi-110 011.
2. Director, Solid State Physics Laboratory,
Ministry of Defence,
Lucknow Road, Delhi-110 054. - Respondents

(By Advocate - Shri R.N. Singh, proxy for Shri R.V.
Sinha, Counsel)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicants have filed this OA under
Section 19 of the Administrative Tribunal's Act, 1985
praying for the following relief:-

" In view of the facts mentioned in para 6
in the OA the applicants prays that they be promoted
to the post of Sr. Gestetner Operator/ Office
Assistant 'A' and Office Assistant 'B' and be given
the pay scale of Rs.3050-4590 w.e.f. from date of
issue of impugned promotion order."

2. All the applicants are working as Office
Attendants-D in the office of Solid State
Physics Laboratory, Government of India, Ministry of

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Defence, Research and Development Organisation, Delhi.

In this organisation there is four tier structure and designation of Group 'D' posts is given below which is existing there prior to 5th Central Pay Commission (hereinafter referred to as 5th CPC). The applicants have given a chart in para 'E' of the OA regarding the Group 'D' posts in their organisation which is as below:-

"Prior to 1.1.1996	After 1.1.1996
Pay Scale	Pay Scale
<u>Existing/Revised/Designation/Existing/Revised</u>	
<u>Designation</u>	
1. Peon 750-940 2550-3200 OA'A'	750-940 2550-3200
2. Daftry 775-1025 2610-3540 OA'B'	775-1050 2610-3540
3. Record 800-1150 2650-4000 OA'C'	800-1150 2650-4000
Keeper/ Junior Gestetner Operator	
4. Sr. Gestetner Operator 950-1400 3050-4590 OA'D'	825-1200 2750-4400 3200-4900

3. The applicants allege that after the 5th CPC the scales of various posts have been revised but in that process the applicants who were holding the posts of Junior Gestetner Operator/Record Keeper in the scale of Rs.2650-4000 (pre-revised Rs.800-1150) have been promoted to the new post known as Office Attendant 'D' carrying the pay scale of Rs.2750-4400 (pre-revised scale of Rs.825-1200) which is the replacement scale of Rs.825-1200 whereas the applicants allege that the equally placed persons in the Ministry of Defence who were holding the post of

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Junior Gestetner Operator/Record keeper have neither been redesignated nor their posts have been restructured but are enjoying the promotion benefit to the post of Senior Gestetner Operator in the scale of Rs.3050-4590 which is the replacement scale of un-revised scale of Rs.950-1400. Thus it is alleged that respondents have reduced the promotion avenues of the applicants by bringing them down from scale of Rs. 3050-4590 to Rs.2750-4400 which was never the contention/intention of the 5th CPC. The same is alleged to have been done vide impugned order and notification dated 26.3.98, Annexure A-3, 26.8.98, Annexure A-4 and order dated 1.1.1999 vide Annexure A-5. Annexure A-3 is the order with regard to the restructuring, order dated 26.8.98 is with regard to promotion of non-gazetted officers (Junior Gestetner Operator/Record Keeper) including that of the applicants when they were promoted from the post of Office Attendant 'C' to Office Attendant 'D'. Annexure A-5 is another order vide which the applicant No.3 was promoted from Office Attendant 'C' to Office Attendant 'D'. So the main grievance of the applicants are that on promotion they should have been given the pay scale of Rs.3050-4590 instead of Rs.2750-4400 as such they allege that by the impugned order and notification issued consequent to the cadre review of Office Attendant has reduced the rank of the applicants by one grade which tantamounts to demotion of the applicants without any fault of the part of the applicants, whereas no cadre review has been done in the Ministry of Defence.

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4. It is further stated that the impugned order and notification which has been issued is against the principles of natural justice.

5. Respondents who are contesting the OA submitted that the impugned orders have been passed by the competent authority and new cadre structure has been introduced on the basis of the 5th CPC and, therefore, there is no need of any interference into the orders by this Tribunal and the instant OA is nothing but misuse of process of law.

6. The respondents admit about the existence of 4 type of posts of Peon, Daftry, Junior Gestetner Operator and Senior Gestetner Operator prior to the 5th CPC but submitted that after the 5th CPC the cadre had been restructured and the existing incumbents on the post of Senior Gestetner Operator were redesignated as Office Assistant 'A', Office Assistant 'B'. The peons/Messenger/Orderly, Daftry and Junior Gestetner Operator were restructured and Office Attendant 'A', Office Attendant 'B', Office Attendant 'C' and Office Attendant 'D'. It is denied that any benefit has been denied to the junior Gestetner Operators.

7. It is also submitted that under the old cadre structure only those Junior Gestetner Operators/Record Keepers who possess the requisite qualification could be promoted to the post of Senior Gestetner Operator and many of the applicants have been promoted under old cadre structure. The new

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cadre structure had been introduced and adopted in the DRDO to benefit the maximum number of persons and thus promotion of 50 Office Attendants 'C' given to the erstwhile Junior Gestetner Operators to the newly created posts of Officer Attendants 'D' in the pay scale of Rs.2750-4400 has benefited them and it does not in any manner tantamount to reducing the applicants by one stage.

8. It is further submitted that the chart as reproduced in para 4 of the OA gives an impression that the post of Office Attendant 'D' is in lieu of Senior Gestetner Operator. The same is incorrect and misleading and as such the post of Office Attendant 'D' is a newly created post in the pay scale of Rs.2750-4400 and this has been done keeping in view the recommendations of the 5th CPC.

9. We have heard the learned counsel for the parties and have gone through the records of the case.

10. The learned counsel appearing for the applicants submitted that earlier Junior Gestetner Operator/Record Keeper was entitled to be promoted to the post of Senior Gestetner Operator and now the only designation has been changed and Junior Gestetner Operator is entitled to be promoted as Office Attendant 'D' which is a post equivalent to the post of Senior Gestetner Operator and the applicant could not have been given lesser pay scale than that of Senior Gestetner Operator. The counsel for the applicant also referred to a letter dated 15.2.99 vide.

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A which the post of Office Attendant 'D' in the pay scale of Rs.2750-4400 has been declared as Group 'C' post with effect from 1.1.1999 in the DRDO. On the strength of this letter the counsel for the applicant submitted that once the post has been declared as Group 'C' perhaps then the applicant cannot be given the pay scale of Rs.2750-4400 because that pay scale is meant for Group 'D' post only whereas the scale for the Group 'C' should have been a minimum start of 3050-4590 and no group 'C' employee can be given less than that.

11. On the contrary, counsel for the respondents submitted that the cadre re-structuring has been done in conformity with the directions given by the 5th CPC and pay scale has been accordingly fixed. The pay commission being an expert body, are competent to grant pay scales to different group of employees which cannot be challenged before this Tribunal as it is the job of expert bodies only. The counsel for the respondents further submitted that in view of the judgment in the case of Union of India and Others vs. Pradip Kumar Dey, JT 2000 (Suppl.2) SC 449 the applicants are not entitled to any relief. In that case it was held as follows:-

"Courts should normally leave such matters for the wisdom of administration except the proven cases of hostile discrimination.It is always open to the Government to consider the issue either by making reference to the Pay Commission or itself once again as to the grant of pay scale to the respondent".



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12. In the above case the Apex Court has also referred to the case of Union of India and Another vs. P.V. Hariharan and Another, JT 1997(3) SC 569. The counsel for the respondents submitted that in view of the judgment of the Apex Court this Tribunal cannot review the pay scales fixed by the department. In our view also the pay fixation is a matter on which the Expert Bodies e.g. Pay Commission etc. are competent to see as to what pay scales should be given to a particular post.

13. As far as the claim of the applicant that the post of the Office Attendant 'D' is equivalent to Senior Gestetner Operator we find that there is no material on record which may show that the duties of existing Senior Gestetner Operator and the duties of Office Attendant 'D' are the same and the qualification to hold the said post are similar qualification for both posts and the incumbents are to perform similar duties. To that extent, there is no material on record whereas the respondents have shown that a new post in Group 'D' has been introduced keeping in view the recommendations of the 5th CPC. The pay scale of Rs.825-1200 was for the post of Office Attendant 'D'. It was also submitted that under the rules many of the Junior Gestetner Operator/Record Keeper may not have been eligible for Senior Gestetner Operator in the pay scale of Rs.950-1400 but they may be eligible for Office Attendant 'D' in the pay scale of Rs.825-1200. Hence no harm has been caused to the applicants nor any promotion post which has been reduced. It is only a

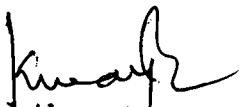
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new promotion post has been created. In these circumstances, we find that the OA does not call for any interference.

14. In view of the above, we are of the considered view that OA has no merits, which is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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