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Central Administrative Tribunal, Principal Bench

Original Application No.2103 of 2000

New Delhi, this the 30th day of May,2001

Hon'ble Mr.V.K.Majotra, Member (Admnv)  
Hon'ble Mr.Kuldip Singh, Member(J)

Kirpal Singh, S/o Shri Mathura Singh, R/o  
Viillage Bengoli, P.O.Shambawali, Distt.  
Ghaziabad (U.P.) - Applicant

(By Advocate Shri S.K.Gupta)

Versus

1. Union of India through Secretary,  
Ministry of Defence, South Block, New  
Delhi.
2. Controller of Defence Accounts, Ministry  
of Defence, Meerut Cantt. Meerut.
3. Commandant, Equine Breeding Stud, Babu  
Garh, Distt. Ghaziabad (U.P.).
4. Officer-in-Charge, Remount & Veterinary  
Corps Records, Post Box No.111, Meerut  
Cantt. Meerut-250001. - Respondents

(By Advocate -None)

O R D E R

By V.K.Majotra, Member(Admnv) -

As none was present on behalf of respondents despite second call, we have proceeded to dispose of this OA in terms of Rule 16 of Central Administrative Tribunal (Procedure) Rules,1987. We have considered respective pleadings of parties, records available on file and heard learned counsel of applicant Shri S.K.Gupta.

2. The applicant has challenged action of respondents in not fixing his pay in the scale of Rs.4000-6000 which is meant for MT Driver Grade-II. The applicant was recruited as MT Driver on 23.10.1981 in the Office of respondent no.3 with effect from 9.11.1981 (Annexure-A-1). According to applicant vide letter dated 5.12.1996 (Annexure-A-2) respondents introduced three grade structure for the cadre of Civilian Motor Drivers in various Defence Establishments on the basis of the Award given by the Board of Arbitration in CA

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Reference Nos.9 & 10 of 1983. Civilian Motor Driver (Ordinary Grade) was put in the scale of Rs.950-1500; Driver Grade-II in the scale of Rs.1200-1800; and Driver Grade-I in the scale of Rs.1300-2040. The percentage of posts in these grades was kept as 55%, 25% and 20%. 25% was to be given to the Drivers having 9 years of regular service in the initial grade and 20% was given to Drivers having six years service in the middle grade. As per aforesaid letter dated 5.12.1996 it was also made clear that Drivers having 15 years of service were to be considered for the highest grade i.e. Grade-I subject to availability of vacancies and in case vacancies in Grade-I were not available then these Drivers were to be considered for appointment in Grade-II on the basis of same eligibility and other criteria. The applicant retired on 30.6.2000 without his pay having been fixed in the grade of Rs.4000-6000 and without having been considered for appointment in MT Driver Grade-I. The applicant has sought for the following reliefs:-

- i) to direct the respondents to fix the pay of the applicant in the pay scale of Rs.4000-6000 which is available to MT Drivers Grade-II on which the applicant was appointed, w.e.f.1.1.1996;
  - ii) before granting prayer (i) as above, the respondents may be directed to fix the pay of the applicant in the grade of Rs.1200-1800 w.e.f. the due date;
  - iii) after granting above, the respondents may further be directed to consider the case of the applicant for promotion to MT Driver Grade-I, as per para 2.4 of the letter dtd.5.12.96;
  - iv) to direct the respondents to pay the interest at the rate of 18% p.a. on the arrears of pay;
  - v) to pass such other and further order which this Hon'ble Tribunal may deem fit and proper;
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3. In their counter respondents have stated that the applicant was appointed in the pay scale of Rs.260-350 revised to Rs.950-1500 on the basis of recommendations of the Fourth Central Pay Commission and Rs.3050-4590 on the recommendations of the Fifth Central Pay Commission, which is a pay scale of MT Driver Ordinary Grade. According to respondents applicant is not entitled to pay scale of Rs.4000-6000 as MT Driver Grade-II under the newly introduced promotion scheme. The respondents have contended that the applicant's promotion was required to be regulated as per his own seniority in EBS Babugarh where he was junior most among three MT Drivers where his position did not merit his promotion to MT Driver Grade-II in the pay scale of Rs.4000-6000. MT Driver category is not a centralised controlled post. Normally MT Driver initially appointed in a particular unit is not transferred to another unit unless he applies for posting on compassionate grounds. On such transfer, he has to forego his seniority for further promotional benefits. The applicant remained at EBS Babugarh throughout till his retirement. However, he was the junior most amongst 3 MT Drivers. The respondents have further maintained that the applicant was not eligible for MT Driver Grade-II or I, as claimed by him for want of vacancies. Whereas the revised structure of MT Drivers was for category of posts in the MES MT Drivers, the same was not applicable to the applicant as he was the junior most among a total of 3 MT Drivers at EBS Babugarh.

4. The applicant has filed a rejoinder as well.

5. As per Army Headquarters letter dated 20.8.1999 whereas the authorised strength of MT Drivers in EBS Babugarh is 4, it has been distributed on the basis of percentages allocated to different grades as

1,1,2 among Grade-I, Grade-II and Ordinary Grade respectively. The respondents have maintained that the applicant was the junior most among a total of 3 MT Drivers in EBS, Babugarh. As there were only one each vacancy in Grades I and II, he could not have been promoted to Grade-II in view of limits of posts on different grades and also because of interpretation of provisions contained in letter dated 5.12.1996 we are of the view that same eligibility and other criteria are applicable to Grade-II posts as are applicable to Grade-I posts. As candidates cannot be accommodated in Grade-I in spite of putting in 15 years of service for want of vacancies. similarly, they cannot be accommodated in Grade-II even though they have put in more than 9 years of service when there are no vacancies in Grade-II. In the present case there is only one vacancy in Grade-I and one in Grade-II in EBS Babugarh Unit and the applicant being at <sup>sl. no.</sup> no.3 in <sup>seniority</sup> ser. at EBS Babugarh, he cannot be accommodated even in Grade-II.

6. Having regard to above facts and analysis, we do not find any merit in the OA which is dismissed accordingly. No costs.

*Kuldip Singh*  
 (Kuldip Singh)  
 Member (J)

*V.K. Majotra*  
 (V.K. Majotra)  
 Member (Admnv)