CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2441/2000
OA 2446/2000
OA 2521/2000
OA 2378/2000
OA 2379/2000

New Delhi, this the 10th day of August, 2001

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

OA 2441/2000

Shri Ram Lal
S/o Shri Ramesh Chander
R/o 2064, Dharampal Marg
Narela Mandi, DELHI. ...Applicant

OA 2446/2000

1. Shri Kushal Singh
S/o Shri Kanwar Singh Bist
R/o H-3/229, Sector-I, Rohini
New Delhi.

2. Shri Nihal Singh
S/o Shri Budh Ram,
R/o Village-Rampur, Dhhadhi
P.O Jatola, Tahsil Pataudi, Distt.
Gurgaon (Haryana).

3. Shri Ram lal Sharma
S/o Shri B.R.Sharma
R/o H.No. 1440, Lodhi Complex
New Delhi.

4. Shri Brij Mohan
S/o Shri Roshan Lal
R/o H.No. 11/264, Geeta Colony
Delhi - 31.

5. Shri Madan Lal,
S/o Late Phagu Mal,
R/o Qr.310, Block No.80
Sector-I, Peshwa road,
Gole Market, New Delhi - 1.

6. Shri K.K.Sharma
S/o Shri Chitra Shrma
R/o BC-3/46A, Paschim Vihar
New Delhi - 63.

7. Shri Jawala Prasad
S/o Shri Roshan lal,
R/o H.No.736, Janta Flat, Nand Nagri
G.T.B. Enclave, Delhi - 93.

8. Shri Bhagwan Sahu,
S/o Shri Vasudev Sahu,
R/o H.No. 9/201, Khichripur, Delhi - 91.

9. Shri Ravinder Kumar,
S/o Late Umrao Bahadur,
R/o C-298, Shriniwaspuri,
New Delhi - 65.

10. Shri Hira Singh,
S/o Shri Mohan Singh Bist
R/o 29/A, Sector 4, DIZ Area
Gole Market, New Delhi.

11. Shri Soran Singh
S/o Shri Shiv Singh
R/o H-13
Saurabh Vihar, Hari Nagar Extn.
Jaitpur Road, New Delhi - 44.

12. Shri Santbeer
S/o Shri Gajraj Singh
R/o D-11, H.No.256
Hari Ngr. Extn., Jaitpur
Badarpur, New Delhi.

13. Shri Virender Singh
S/o Shri Mehar Dass
R/o Vill. & P.O.Kulatana, Distt. Rohtak

14. Shri Kailash Chand
S/o Late Sh. Kishan Lal
R/o D-799, Co.operative, Tejpur
Peharai, Badarpur, New Delhi - 44.

15. Shri Dharam Pal Singh,
S/o Shri Prem Pal Singh
R/o H.No.217, Gali No.1 Rajveer Colony
Gharoli, New Delhi.

16. Shri Ram yagya
S/o Shri Dattu
R/o 7/218, Shakti Vihar, Part-II
Badarpur, New Delhi.

17. Shri Jagpal Singh
S/o Shri Bharat Singh
R/o H.No. 170/Ist
M.B.Extn. Badarpur, New Delhi - 44.

18. Shri Sansar Chand,
S/o Dharam Chand
H.No.104, Road No.3, Anddrews Ganj,
New Delhi.

19. Shri Savinder Kumar Gupta,
S/o Shri Ant Ram
R/o 178-A, DDA Flats, Shahpur Jat
New Delhi.

20. Shri Anand Prasad,
S/o Shri Raghubeer Singh
R/o RZ-72, Salyad Gaon, New Delhi -87.

<u>OA 2521/2000</u>

1. Shri Munni lal
S/o Shri Ram Pyare
R/o H.No.2297,
Lodhi Complex, New Delhi.

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2. Shri Amar Nath
S/o Shri Bhikha Ram
R/o RZE-673/11, Gali No.20
Sadh Nagar, Palam Colony,
New Delhi - 45.

3. Shri Nazir Singh Yadav
S/o Shri Raj Kumar Yadav
R/o H.No. N.164, Teachers Colony
Pratap Vihar, Gaziabad, U.P.

4. Shri Chandra Dev Mehto
S/o Shri Babu Lal Mehto
R/o H.No.-G-21, Sec-4, Raja Bazar
Gole Market, N. Delhi -1.

5. Shri Jai Shankar Prasad
S/o Shri Bahadur Ram
R/o H.No. D-400, Kidwai Nagar East,
New Delhi - 23.

6. Shri Pyare Lal,
S/o Shri Tirkha Ram
R/o H.No.335, Sec.3
M.B.Road, Pushp Vihar, New Delhi.

7. Shri Ram Phal
S/o Shri Bhondu Ram
R/o H.No.910, Sec-7
R.K.Puram, New Delhi - 22.

8. Shri Ashok Kumar
S/o Shri Khem Chand,
R/o H.No. S-596, School Blk,
Nehru Enclave, Shakarpur, Delhi - 92.

9. Shri Ram Pal,
S/o Shri Dungar Singh
R/o H.No.427, Blk-N, Sewa Nagar
New Delhi.

10. Shri Mehar Chand
S/o Shri Chet Ram
Office of the Asstt. Engineer (E)
CCW : AIR : Akashwani Bhawan, New Delhi.

11. Shri Kanti Swaroop
S/o Shri Adal Prasad,
R/o Flat No.-1166, Pkt-C
LIG Flat, EAst Loni Road, Shahdara
Delhi.

12. Shri Om Swaroop
S/o Shri Bhim Singh
R/o V/po Chawla, New Delhi - 71.

13. Shri Gauri Shankar,
S/o Shri Bhulai Mehato
R/o F-812/1864, Netaji Nagar,
New Delhi.

...Applicants

OA 2378/2000

1. Shri Ram Vichar
S/o Shri Ram Ayodhya
R/o 46-F, Ram Bagh, New Delhi.

2. Shri Siya Ram
S/o Shri Babu Lal
R/o 80/6, Pushp Vihar
M.B.Road, New Delhi.

3. Shri Mukhtar Mehto
S/o Shri Shiv Narain Mehto (Late)
R/o J-707, Mandir Marg, N.Delhi

4. Shri Jawahar Ram
S/o Shri Ghurahu Ram
R/B-2/6B, Rajapuri, Uttam Nagar
New Delhi - 59.

5. Shri V.R.Tyagi
S/o Shri Phakir Chand Tyagi
R/o Qr. No.160, Prem Nagar
New Delhi.

6. Shri Suresh Chand
S/o Shri Sukh Lal
R/o F-519
Gali No. 17, Chandbagh Colony
Delhi - 94.

7. Shri Dalep Singh
S/o Shri Tara Chand
R/o House No.C/67, Amar Colony, Nagloi
New Delhi - 41.

8. Shri Pratap Singh
R/o F-519, Gali No.17, Chandbagh
Colony, N.Delhi.

9. Shri Tej Singh
S/o Shri Than Singh
R/o 0-1/9B, Budh Vihar, Phase-I
Delhi.

10. Shri Dev Dutt
S/o Shri Bhoodev Prasad,
R/o E-190, Jai Vihar Colony
Near Banicam, Najafgarh, N.Delhi.

11. Shri Baljeet Singh
S/o Shri Rup Chand
R/o Qr. No.93, Sector 3, M.B.Road
Delhi.

12. Shri Ashok Kumar
S/o Shri Mangu Ram
R/o Qr. No.2/60, Subhash Nagar
New Delhi.

13. Shri Ram Agya Mehto
S/o Shri Hawal Dar Mehto
R/o Subhash Park-II, Khora Colony
Ghaziabad (UP).

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14. Shri Man SIngh,
S/o Shri Jodha Singh
R/o Sector 51, Village Hoshiyar
Pur, Distt. Gautam Budh Nagar, UP.

...Applicants

OA 2379/2000

1. Shri Shanker Prasad
S/o Late Shri Kuldip
R/o Qr.No.330, Sector-3
M.B.Road, Pushp Vihar,
New Delhi.

2. Shri Raghunath Mehto
S/o Late Shri Dhodha Mehto,
R/o A-58, Sector 2, Pushp Vihar
Saket, New Delhi.

3. Shri Dhoop Lal Manjhi
S/o Late Shri Shivaji Manjhi
R/o 86/6, Sector-I, Pushp Vihar
M.B.Road, New Delhi.

4. Shri Shatrughan
S/o Late Shri Ramanand,
R/o WC-112,
Netaji Nagar, New Delhi -23.

5. Shri Chander Pal
S/o Late Shri Amra
R/o House No.I/3680, Dak Kahana Gali
Ram Nagar Vista, Shahdara, Delhi - 32.

6. Shri Krasan Kumar
S/o Shri Jagat Singh
R/o 2/31, Patel Park, Bahadurgarh
HARYANA.

7. Shri Jaswan Singh
S/o Shri Puni Chand
R/o Qr.No.5/60, Mandir Marg
New Delhi.

8. Shri V.K.Gupta
S/o Shri Jai Bhagwan
R/o Qr.No. A/345/1, Shastri Nagar
Delhi - 52.

9. Shri Mahi Pal Singh
S/o Shri Gabbar Singh
R/o Qr.No. 39, IInd Floor,
Sector IV, Timar Pur, Delhi - 54.

(By Advocate Shri T.C.Aggarwal)

...Applicant.

V E R S U S

1. Secretary
Ministry of Information and Broadcasting
Shastri Bhawan, New Delhi - 1.

2. The Director General
All India Radio,
Parliament Street

Akashwani Bhawan
New Delhi

3. The Chief Engineer
Civil Construction Wing
P.T.I. Building
IInd Floor, Parliament Street
New Delhi - 1.

(By Advocate Shri M.M.Sudan) ...Respondents

ORDER

By Hon'ble Shri Govindan S. Tampi,

The combined order disposes of above noted five OAs, all filed by identically placed individuals seeking common reliefs and heard together in common proceedings.

2. Heard Shri T.C.Aggarwal, learned counsel for the applicant and Shri M.M.Sudan, learned sr. counsel for the the respondents.

3. Briefly stated, the applicants are work-charged employees working with the AIR Civil Construction Wing, with service conditions, similar to those of CPWD, a fact indicated in the I & B Ministry's letter dated 20-11-1995. Dispute regarding re-categorisation/re-classification of the work-charged and regular classified workers of CPWD was referred to arbitration, leading to the decision that the pay of each worker in the pre-revised scale will be fixed on 1-1-1973 or the date of merger and again on 1-1-1986 in the new scale following the recommendations of the IVth Pay Commission with the benefit of arrears from 1-4-1981. This decision was implemented by CPWD for its employees, but the same was not done in respect of the likes of the applicant. The question of applicability of CPWD Rules and similar pay have been determined and granted to

Sewermen & Ferroprinters by the Tribunal. A request was, therefore, made in respect of the applicants also for bringing them on corresponding regular post w.e.f. 1-1-1973, pay fixed in the higher post from that day and arrears granted from 1-4-1981. The same has not taken place. Hence these OAs.

4. The applicants plead that inaction on the part of the respondents was totally arbitrary and malafide and against all cannons of justice and fair play. Since the applicants who are attached to the Civil Construction Wing of Akashwani are those who were originally brought from the CPWD for construction work in the area or those subsequently recruited under the same terms and conditions, they were correctly entitled to have the benefits of the award, extended to them as well. They also referred to the decision dated 27-4-2000 of the Tribunal in OA No.2464/1996 filed by Shri Liloo Singh to identically placed work-charged employees.

5. In their reply the respondents indicate that those working in Civil Construction of AIR cannot be equated with those in CPWD, as they work under different Ministries. Provisions of CPWD Manual Vol.III, notwithstanding, the applicants were never considered a part of CPWD establishment. The respondents also state, that the decision of the Tribunal dated 27-4-2000 in the OA by Liloo Singh was not applicable to the applicants. They cannot also derive any benefit from the arbitration award as they were not parties in the arbitration, plead the respondents.

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6. During the oral submissions, Shri T.C.Aggarwal, learned counsel for the applicants reiterates the pleas made in the OAs and submits that the issue having been already decided by the Tribunal in favour of Sewermen, the same should apply in their own case as well. He also invites our attention to CPWD's OM dated 7-5-1997 and seeks the benefit for them as well. Shri Sudan, learned sr. counsel on the other hand reiterates his objections to the above.

7. We have carefully considered the rival contentions and the documents brought on record. What the applicants seeks is the extension of the facilities granted to work-charged employees of the CPWD, by means of arbitration with consequential benefits, as they are similarly placed, either having come from CPWD or posted subsequently under the same terms and conditions as the work-charged employees of CPWD. A very feeble attempt is made by the respondents to contest the above holding that the applicants are different from those working in CPWD and that they were not parties to the arbitration. These objections do not have any validity in view of the letter No. C-28011/1/75-CW-II-B (D) dated 20-11-1975 of the Ministry of Information and Broadcasting under which AIR falls, which makes it clear that the terms and conditions of the work-charged staff attached to the AIR were on the same lines as that of CPWD, which has been duly endorsed in Chapter 3 of AIR Manual dealing with

Civil Construction Wing. That being the case the applicants' request for the benefit of arbitration in CPWD be extended to them also cannot be denied. Our above view is also strengthened by the order dated 27-4-2000 by a Co-ordinate Bench of this Tribunal while disposing of OA 2464/96 filed by Liloo Singh, Sewerman in Civil Construction Wing in Ministry of Information and Broadcasting. The relevant portion of the said judgement is being reproduced below;

"6. The learned counsel for the respondents stated that the award in the case of workers in the CPWD is not applicable to those in the CCW, AIR. The applicant was not a party to the matter in that petition thus the terms and conditions of the award are not applicable in the applicant's case. He further contended that CPWD is a much larger establishment than the CCW, AIR and, therefore, the terms and conditions applicable to the work charged establishment in the CPWD are not at all applicable in the case of work charged staff of CCW. He also submitted that the applicant had submitted his representation for the first time on 31-8-1995, Annexure A-3 and, therefore, if at all his claim is accepted he cannot be granted arrears. He also contended that no reliance can be placed at Annexure A-2 which is an internal communication between DG AIR and Ministry of Information and Broadcasting.

7. The relevant provision 3.5.17 regarding to work-charged establishment in the AIR Manual (Annexure A-3) clearly establishes that provisions of CPWD Manual are applicable in matters of recruitment, pay sales and other rules to work-charged establishment in CCW. This provision is further interpreted in the aforesaid memo dated 20-11-1975, Annexure A-4 suggesting that CCW is a replica of CPWD and the provisions of the CPWD Manual are applicable to the work-charged establishment of CCW. This concept has been accepted in the order dated 15-10-1996 passed in OA 2229/96 by this Tribunal. No doubt the arbitration award referred to above in the OA related to the employees of the work -charged in CPWD, yet since the duties and functions of the work-charged staff of CPWD and CCW AIR being identical their terms and conditions have also to be the same as per the provision under AIR Manual read with CPWD Manual. The applicability of the terms and conditions of the arbitration award referred to above to the applicant's case would be quite in order. We

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also notice that in pursuance of Tribunal's order dated 15-10-1996 in OA 2229/96 by the respondents. Earlier also as per Annexure A-5 dated 20-3-1991 DG, AIR had implemented the judgement of the Hon'ble Supreme Court dated 17-1-1986 in the case of Surinder Singh's (supra) in respect of the daily rated work-charged staff in CCW on the principle of equal pay for equal work etc."

It is also seen that the above decision has been followed in the OA No. 1140/99 filed by Shri Divan Singh & Ors. which has been disposed of on 17-4-2001.

8. The applicants also have referred to the OM No. 22-9-1993 - EC.X dated 7-5-1997 issued by DG (Works), CPWD on the implementation of arbitration award which enumerates 16 categories of staff including Wiremen and Asstt. Wireman, who are the applicants in the OAs. The applicants, therefore, have to be given the similar treatment and extended the benefit of arbitration as has been granted to similarly placed men in CPWD.

9. In the above view of the matter, the applications succeed and are accordingly allowed. The respondents are directed to extend to the applicants the benefit of the CPWD's OM No. 22/9/93-EC.X dated 7-5-97 with the consequential benefits of the award w.e.f. 1-4-81. Their request for payment of interest is rejected. This exercise should be completed within three months from the date of receipt of the copy of this order. No costs.

10. The operative portion of this order was pronounced in the Court at the end of oral submissions on 21-8-2001.

S. Raju

(SHANKER RAJU)
MEMBER (J)

(GOVINDAN S. TAMPI)
MEMBER (A)

/vikas/