

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2342/90

New Delhi this the 19th day of Jan, 95.

Shri N.V. Krishnan, Vice Chairman(A).

Dr A. Vedavalli, Member(J).

PRAN NATH SONI,
AD-100, Shalimar Bagh,
DELHI-110052 (1)

Applicant-1

AGGARWAL, BM
481/IV, RK Puram,
NEW DELHI-22 (96)

Applicant-2

AGRAWAL, MM
C-20, Model Town,
DELHI-9 (87)

Applicant-3

AGGARWAL, RB
2763/22, Beadon Pura,
Karol Bagh, NEW DELHI-5 (114)

Applicant-5

AHUJA, JS
6/7,D/S, Lajpat Nagar,
NEW DELHI-24 (102)

Applicant-6

AMBRISH KUMAR
17(UF), Tansen Marg,
NEW DELHI-1 (7)

Applicant-7

AMMAN, SS
Office of SA to CNS,
C-Wing, Sena Bhavan, NEW DELHI-11 (28)

Applicant-8

ANAND PRAKASH
EDPS, Sena Bhavan,
NEW DELHI-11 (37)

Applicant-9

(Arora, KL (20A, 117)-See Appl-117)

ARUN KUMAR
51, National Park, Lajpat Nagar,
NEW DELHI-24 (70)

Applicant-10

(Numerals in parenthesis are Serial Numbers in Vakalatnama)

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BAGGA, SS
A2B/19A, Paschim Vihar
NEW DELHI-63 (19) Applicant-11

BANDYOPADHYAY, MC
AD-22A, Shalimar Bagh,
DELHI-52 (9) Applicant-12

BANGA, GK
Building No 2, 1st Shopping Centre-II,
Ashok Vihar-II, DELHI-52 (25) Applicant-13

BATRA, RAJ (Smt)
G-5, Prasad Nagar,
NEW DELHI-5 (77) Applicant-14

BEDI, PMS
779, Laxmibai Nagar,
NEW DELHI-23 (99) Applicant-15

BHAGWAN SINGH
482, Nimri Colony,
DELHI-52 (14) Applicant-16

BHARGAVA, HR
330/IV, RK Puram,
NEW DELHI-22 (112) Applicant-17

BHATIA, RS
C-2C/2/28, Janakpuri,
NEW DELHI-58 (92) Applicant-18

BHATIA, VK
5 UA, Jawahar Nagar,
DELHI-7 (78) Applicant-19

BHATT, HD
Dte R&M, DRDO Hqrs, Sena Bhavan,
NEW DELHI-11 (41) Applicant-20

BHOJ RAJ
S/U-72, Pitampura
DELHI-34 (16)

Applicant-21

BIRENDAR PRASAD
15/260, Lodi Colony,
NEW DELHI-3

Applicant-22

CHANDER PARKASH
E-99, Preet Vihar,
DELHI-92 (72)

Applicant-23

CHANDRA PRAKASH
E-38, Saket,
NEW DELHI-17 (71)

Applicant-24

CHAUHAN, BS
Dte of Exp Safety,
Room-85, L-Block, NEW DELHI-1 (31)

Applicant-25

CHAWLA, SC
Dte Standardisation, Room-117, H-Block,
NEW DELHI-11 (27)

Applicant-26

CHHATWAL, JS
C-2/23-A, Lawrence Road,
DELHI-35 (113)

Applicant-27

CHOPRA, BK
Office of SA to COAS, Room-6, L-1 Block,
NEW DELHI-1 (33)

Applicant-28

CHOPRA, OP
177 M, Vikas Puri,
NEW DELHI- (56)

Applicant-29

DAS GUPTA, P
DCV/DRDO, Room-115, Sena Bhavan,
NEW DELHI-11

Applicant-30

ll



DHAM, JS
CA/84, Tagore Garden,
NEW DELHI-27 (83)

Applicant-31

DIMRI, DP
DRDO Hqrs, Sena Bhavan,
NEW DELHI-11 (49)

Applicant-32

DUA, RK
A11/27, Vasant Vihar,
NEW DELHI-57 (11)

Applicant-33

GANGARH, JR
62/Type-3/Sector-IV, Timarpur,
DELHI-54 (110)

Applicant-34

GHOSH, MEERA
B-377, Chittaranjan Park,
Kalkaji, NEW DELHI-19 (4)

Applicant-35

GHOSH, SK
B-377, Chittaranjan Park,
Kalkaji, NEW DELHI-19 (5)

Applicant-36

GOEL, SB
Dte R&M/DRDO Hqrs,
Sena Bhavan, NEW DELHI-11 (42)

Applicant-37

GROVER, RA
16/60, Punjabi Bagh,
DELHI-26 (79)

Applicant-38

GUHA, C
B-35, Moti Bagh-II,
NEW DELHI-21 (80)

Applicant-39

GULATI, SL
E/147, Naraina Vihar,
NEW DELHI-28 (81)

Applicant-40

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GUPTA, VED PRAKASH
1143/XII, RK Puram,
NEW DELHI-22 (71-A) (116)

Applicant-41

GURTU, SK
RP-33, Pitampura,
DELHI-34 (66)

Applicant-42

HARBANS LAL
Dte Armaments, DRDO Hqrs,
Sena Bhavan, NEW DELHI-11 (46)

Applicant-43

JAGDISH PRASAD
E-60, West Jyotinagar Extension,
PO Gokulpuri, DELHI-94 (90)

Applicant-44

JAIN, SC
1-C, Press Block, Old Sectt,
Civil Lines, DELHI-54 (107)

Applicant-45

JAIN, SP
Dte of Tech Coord, Room-341, B-Wing,
Sena Bhavan, NEW DELHI-11 (29)

Applicant-46

JANGILAL
SAG, Metcalf House,
DELHI-54

Applicant-47

JASWANT RAI
SAG, Metcalf House,
DELHI-54 (52)

Applicant-48

KAICKER, HC
1069/XII, RK Puram,
NEW DELHI-22 (74)

Applicant-49

KAIRA, AK
Office of SA to CAS, Vayu Bhavan,
NEW DELHI-11 (26)

Applicant-50

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KAPOOR, KS 1068/IV, RK Puram, <u>NEW DELHI-22</u> (115)	<u>Applicant-51</u>
KAPOOR, SK KD-83C, Ashok Vihar-I, <u>DELHI-52</u> (98)	<u>Applicant-52</u>
KAPOOR, SN 131 'A' Pocket U & V, Block 'B' Shalimar Bagh, <u>DELHI-52</u> (17)	<u>Applicant-53</u>
KAPOOR, VB A-1/96, Lawrence Road, <u>DELHI-35</u>	<u>Applicant-54</u>
KHANNA, JC II-C/41, Nehru Nagar, <u>GHAZIABAD</u> (UP) (108)	<u>Applicant-55</u>
KOHLI, RAVINDRA A-5/324, Paschim Vihar, <u>NEW DELHI-63</u> (13)	<u>Applicant-56</u>
KUMAR, V BM-52(Poorvi) Shalimar Bagh, <u>DELHI-52</u> (111)	<u>Applicant-57</u>
LAXMAN DASS AP-48, Shalimar Bagh, <u>DELHI-52</u> (60)	<u>Applicant-58</u>
MADHAVIAH, J DESIDOC, Metcalf House, <u>DELHI-54</u> (18)	<u>Applicant-59</u>
MALHOTRA, SS KP-220, Pitampura, <u>DELHI-34</u> (59)	<u>Applicant-60</u>

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MALIK, PN Dte Materials, DRDO Hqrs, Sena Bhavan, <u>NEW DELHI-11</u> (45)	<u>Applicant-61</u>
MANGHANI, S TP-108, Pitampura, <u>DELHI-34</u> (61)	<u>Applicant-62</u>
MEENA KUMARI (Smt) 139, South Park Apartment, Kalkaji, <u>NEW DELHI-19</u> (63)	<u>Applicant-63</u>
MINOCHA, PK C4D/53-B, Janakpuri, <u>NEW DELHI-58</u> (88)	<u>Applicant-64</u>
MITTAL, KK (Smt) KW-2, Kaveri Hostel, JNU, <u>NEW DELHI-57</u> (3)	<u>Applicant-65</u>
NARESH, P SU-22, Pitampura, <u>DELHI-34</u> (76)	<u>Applicant-66</u>
NARULA, BS Dte Standardisation, 'J' Block, <u>NEW DELHI-11</u> (22)	<u>Applicant-67</u>
PANDE, BB DCV/DRDO, Room-115, Sena Bhavan, <u>NEW DELHI-11</u> (39)	<u>Applicant-68</u>
PANDE, BC B-108, Pandara Road, <u>NEW DELHI-3</u> (2)	<u>Applicant-69</u>
PANDEY, VP 24/1B, Sector-2, DIZ Area, <u>NEW DELHI-1</u> (95)	<u>Applicant-70</u>

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PARIHAR, SPS J-143, Patel Nagar-I, <u>GHAZIABAD-201001(UP)</u> (15)	<u>Applicant-71</u>
PURI, SC AC-53B, Shalimar Bagh, <u>DELHI-52</u> (84)	<u>Applicant-72</u>
RADHEY SHYAM SINGH C4C/4, Janakpuri, <u>NEW DELHI-58</u> (75)	<u>Applicant-73</u>
RAJENDRA KUMAR DESIDOC, Metcalf House, Civil Lines, <u>DELHI-54</u> (48)	<u>Applicant-74</u>
RAO, TVN DESIDOC, Metcalf House, Civil Lines, <u>DELHI-54</u> (24)	<u>Applicant-75</u>
RAO, VVN 14/91, C4C, Janakpuri, <u>NEW DELHI-58</u> (67)	<u>Applicant-76</u>
RAVINDER PAL Dte of Standardisation, 'H' Block, <u>NEW DELHI-11</u> (20)	<u>Applicant-77</u>
RAWAL, JC 2D, MS Flats, Minto Road, <u>NEW DELHI-2</u> (55)	<u>Applicant-78</u>
RAY, SC Dte Exp Safety, Room-39, L-Block, <u>NEW DELHI-1</u> (34)	<u>Applicant-79</u>
SABHARWAL, S (Smt) A-94, Majlis Park, <u>DELHI-33</u> (65)	<u>Applicant-80</u>

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SACHAN, DP
E-4/23, Model Town,
DELHI-9 (89)

Applicant-81

SAINI, VP
195-197, Khyber Pass Mess
DELHI-54 (104)

Applicant-82

SARKAR, DN
Dte of Materials, DRDO Hqrs,
Sena Bhavan, NEW DELHI-11 (43)

Applicant-83

SATISH CHANDRA
732/III, RK Puram,
NEW DELHI-22 (109)

Applicant-84

SAXENA, AK
Dte of Works (RD-28), 'B' Wing,
Sena Bhavan, NEW DELHI-11 (36)

Applicant-85

SAXENA, SP
134, Aashirwad Apartments,
Patparganj, DELHI-92 (97)

Applicant-86

SHARAN, MD
Office of SA to CNS, Sena Bhavan,
NEW DELHI-11 (50)

Applicant-87

SHARMA, CM
306-E, Govt Qtrs, Dev Nagar,
NEW DELHI-5 (64)

Applicant-88

SHARMA, RK
Qtr 792, Timarpur,
DELHI-54 (91)

Applicant-89

SHARMA, UR
33/35, Mall Road,
DELHI-54 (8)

Applicant-90

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SHIBU RAM
1/3007, Ram Nagar,
Shahdara, DELHI-32 (101)

Applicant-91

SHINGARI, KL
BC-4, Shalimar Bagh,
DELHI-52 (86)

Applicant-92

SHUKLA, SK
B-1/131, Janakpuri,
NEW DELHI-58 (94)

Applicant-93

SINGH, TK
G-4, Shastri Nagar,
GHAZIABAD(UP) (93)

Applicant-94

SINHA, RK
BS-206, Shalimar Bagh,
DELHI-52 (103)

Applicant-95

SINHA, RM
Dte of Standardisation,
'J' Block, NEW DELHI-11 (21)

Applicant-96

SRINIVASAN, TR
Dte Exp Safety, Room-85, 'L' Block,
NEW DELHI-1 (32)

Applicant-97

SRIVASTAVA, MC
SAG, Metcalf House,
DELHI-54 (51)

Applicant-98

SURINDER KUMAR
DP-214, Maurya Enclave, Pitampura,
DELHI-34 (100)

Applicant-99

TAMTA, HL
Dte Standardisation, 'J' Block,
NEW DELHI-11 (23)

Applicant-100

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TANEJA, SK D-44, Naraina Vihar <u>NEW DELHI-28</u> (6)	<u>Applicant-101</u>
TAYAL, SS 96-A, AC-II, Shalimar Bagh, <u>DELHI-52</u> (105)	<u>Applicant-102</u>
TIWARI, OP 458/14, Delhi Road, <u>GURGAON-122001</u> (58)	<u>Applicant-103</u>
TIWARI, RL Dte of Materials DRDO Hqrs Sena Bhavan, <u>NEW DELHI-11</u> (44)	<u>Applicant-104</u>
TRIVEDI, VK 847, Baba Kharak Singh Marg, <u>NEW DELHI-1</u> (57)	<u>Applicant-105</u>
UNIYAL, GP C-110, Nanakpura, <u>NEW DELHI-21</u> (12)	<u>Applicant-106</u>
VARMA, GK B-3/1, Janakpuri, <u>NEW DELHI-58</u> (69)	<u>Applicant-107</u>
VERMA, KK F-484, Vikas Puri, <u>NEW DELHI-18</u> (62)	<u>Applicant-108</u>
VERMA, PS 106, DRDO Officers Hostel, INMAS Complex, Timarpur, <u>DELHI-7</u> (68)	<u>Applicant-109</u>
VIDYA PARKASH B-307, Laxmibai Nagar, <u>NEW DELHI-23</u> (73)	<u>Applicant-110</u>

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VIJAY BAHADUR

Dte R&M, DRDO Hqrs,

Sena Bhavan, NEW DELHI-11 (47)

Applicant-111

VISHVAMITRA

Dte Exp Safety, Room-85, L-Block

NEW DELHI-1 (30)

Applicant-112

VOHRA, KK

Dte Standardisation, J-Block,

NEW DELHI-11 (35)

Applicant-113

WADHWA, SC

2256, Raja Park,

DELHI-34 (85)

Applicant-114

WADVA, AL

D-13A/30 Model Town

DELHI-9 (54)

Applicant-115

YADAV, GS

DNRD, Room 130, Sena Bhavan,

NEW DELHI-11 (38)

Applicant-116

ARORA, KL

Dte Standardisation, H-Block,

NEW DELHI-11 (20A, 117)

Applicant-117

ARORA, OP

48, Sharda Niketan,

DELHI-34 (128)

Applicant-118

BAL, Mahesh

WZ-74B, Mohan Nagar,

NEW DELHI-46

Applicant-119

BHATNAGAR, RR

A-6, Green Park Extn

NEW DELHI-16

Applicant-120

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BHOLA, GC
EB-173, SFS, G-8 Area Maya Enclave
NEW DELHI-64 (162) Applicant-121

CHANDRA, R (Smt)
C-25 South Extn Part-I,
NEW DELHI-49 (157) Applicant-122

CHAVADA, FR
DRDO Hostel, SPL Estate
Lucknow Road, Timarpur, DELHI-54 (122) Applicant-123

DEWAN, RM
45/16, East Patel Nagar,
DELHI-8 (143) Applicant-124

DEY, TIMIR BARAN
485/III, RK Puram,
NEW DELHI-22 (154) Applicant-125

DHARAM PAL
RP-107, Maurya Enclave,
Pitampura, DELHI-34 (129) Applicant-126

GOSWAMI, RK
III-9/63, Rajendra Nagar,
HAZIABAD-(UP) (132) Applicant-127

GOSWAMI, TR
322, Four Marle Qtrs,
GURGAON (Haryana) (141) Applicant-128

GUPTA, CHAMAN LAL
D-18, Brahma Puri,
DELHI (127) Applicant-129

* Jagannath Prasad
JAGDISH CHANDER
KGI/342, MIG Flats, Vikas Puri,
NEW DELHI-18 (161) Applicant-130

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JAIN, SK

III, 11/21, Rajendra Nagar,
SAHIBABAD(UP) (146)

Applicant-131

JASBIR SINGH

D-14-A/3, Model Town,
DELHI-9 (162)

Applicant-132

KISHORE CHAND

258, Raja Park,
DELHI-34 (138)

Applicant-133

KRISHAN PAL

11A/138, Bhajanpura,
DELHI-53 (137)

Applicant-134

MUKHERJEE, SK

1479, Lodi Complex,
NEW DELHI-3 (152)

Applicant-135

NAGPAL, KK

C-97, New Multan Nagar,
DELHI-56 (159)

Applicant-136

NARULA, RC

B-1/175, Paschim Vihar
NEW DELHI-63 (118)

Applicant-137

PARTHASARATHY, NEELA (Smt)

16-A/7, WEA, Karol Bagh,
NEW DELHI-5 (158)

Applicant-138

PATHAK, HT

23/III, Timarpur,
DELHI-54 (120)

Applicant-139

RAM MOHAN

7, Jaipur Estate, Nizamuddin
NEW DELHI-13 (134)

Applicant-140

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RAO, RS
3945/29, Regarhpura, Karol Bagh,
NEW DELHI-5 (130) Applicant-141

RAO, YBM
338, Lancer Road, Timarpur,
DELHI-54 (150) Applicant-142

RAWAT, BS
88, Type-III, MS
Timarpur, DELHI-54 (160) Applicant-143

RAY, NK
17, Ganga Apartments, Alaknanda,
DDA SFS Flats, NEW DELHI-19 (148) Applicant-144

SAGAR, DR
C-8/219, Yamuna Vihar
DELHI-53 (136) Applicant-145

SAMPATH KUMAR, T
XY-3, Sarojini Nagar
NEW DELHI-23 (149) Applicant-146

SARIN, SK
B-1/32, Model Town,
DELHI-9 (142) Applicant-147

SATISH MOHAN
G-122, NAUROJI NAGAR,
NEW DELHI-29 (145) Applicant-148

SHARDA, GD
WZ-182, Lajwanti Garden,
NEW DELHI-46 (135) Applicant-149

SINGH, JP
IV/2543, Behari Colony,
DELHI-32 (123) Applicant-150

SINGH, MN
167, Mandakini Enclave
DELHI (125)

Applicant-151

SINGH, R
123/F-25/VII, Rohini,
DELHI (124)

Applicant-152

SINGH, SP
1479, Lodi Road Complex,
NEW DELHI-3 (153)

Applicant-153

SINGH, VK
9, The Mall Apartments,
Mall Road, DELHI-54 (144)

Applicant-154

SINGHAL, GK
2/123, Sadar Bazar,
DELHI-Cantt-10 (140)

Applicant-155

SINGHAL, SK
102, SPL Estate, Lucknow Road,
DELHI-54

Applicant-156

SINHA, RS
148/III, Timarpur,
DELHI-54

Applicant-157

SRINIVASAN, MN
116/I, RK Puram,
NEW DELHI-22

Applicant-158

SUSAN GEORGE (Smt)
B-72, Pandara Road,
NEW DELHI-3 (156)

Applicant-159

UNIYAL, BP
124/III, Timarpur,
DELHI-54 (151)

Applicant-160

(Numerals in parenthesis are Serial Numbers in Vakalatnama)

VENKATESWARAN, R
41-B, Pocket 4, Mayur Vihar,
DELHI (126)

Applicant-161

VINOD BEHARI
J-444, Sarojini Nagar,
NEW DELHI-23 (147)

Applicant-162

WADHWA, TD
B-131, Bhajanpura,
DELHI-56 (133)

Applicant-163

* JAGANNATH PRASAD
79, The Mall Apartments,
Mall Road, DELHI-54 (139)

Applicant-164

By advocates - Shri G.K. Aggarwal - though not present.

Versus

Union of India through
its Secretary,
Department of Defence and Research
and Development & Scientific Adviser
to Defence Minister and Director
General, Defence Research & Development,
Ministry of Defence,
South Block, DHQ PO,
New Delhi-11.

... Respondent.

By Advocate - Shri P.H. Ramchandani, Sr. Counsel - though not present.

ORDER (ORAL)

Shri N.V. Krishnan

This O.A. was called out for disposal twice.
None appeared for either party. Hence, it is being
disposed of after perusing the records.

2. We notice from the earlier order dated 14.11.94
that the Supreme Court has rendered a decision in Union
of India and another Vs. Scientific Workers Association

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(Regd.) Kanpur and others (JT 1994 (3) SC 170). The respondents, therefore, contended that this O.A. is barred by res-judicate.

3. The brief facts of the case are given in para-2 of the O.A. which reads as follows:

"The applicants are all civilian employees of Central Government, posted in Delhi. The subject matter is one under terms and conditions of their service as such. The question of pay parity for SSAs and Foreman was decided by Arbitration Award dated 12.8.1985 in CA Reference No. 9 of 1983. In the Award, 22.9.1992 was stated as the date of its operation. The Government accepted the Award vide Ministry of Defence OM No. 9(1)/85(ECC/IC)/1 dated 11.11.88 with effect from 1.1.1988, instead of 22.9.82. In OA-952/86 filed on behalf of Scientific Workers Association (Regd), this Hon'ble Tribunal (Hon'ble Mr P.K. Kartha, VC(J) and Hon'ble Mr. M.M. Mathur, M(A) at Principal Bench, New Delhi) held that the Award must be implemented effective 22.9.82. The Govt. filed Review Petition RP-30/90 against the judgement dated 10.8.89 in OA-952/86, under advice from the Hon'ble Supreme Court in Govt's Special Leave Petition (Civil)-14911/89, on the ground that Parliament had approved the date of implementation as 1.1.88 on 13.10.89 (Lok Sabha) and 29.12.89 (Rajya Sabha) after Cabinet approval dated 17.10.88. The SLP (C) was filed on 9.11.89. The Review Petition was rejected by a detailed order dated 10.4.1990 by this Hon'ble Tribunal. The applicants understand that Government has filed further SLP(C) on the limited issue of date of implementation and the said SLP(C) is pending in the Supreme Court".

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Their claim is that the award shall be implemented from 1.1.73 from which date the Senior Scientific Assistants have been treated differently from Foreman in the D.R.D.O. The main ground for the prayer is in para 4.4 which reads as follows:

"4.4. The applicants refer to the Award not as a basis for this claim but as evidence of the fact that the doctrine of equality applies to pay parity between SSAs and Foreman in DRDO. Since the doctrine of equality is found in part III of our Constitution and, therefore, must be obeyed at all times, it is not open to the Govt. to decline its enforcement for any length of time. The Govt. has accepted the finding that nature of duties and responsibilities, as also the qualifications, of SSAs and Foreman is similar. That means SSAs and Foreman continued doing similar work with similar qualifications ever since 1.1.1973. It is, then, ordained by Articles 14, 16, 23 of the Constitution of India that their pay parity be restored/enforced effective fully ever since 1.1.1973 with arrears with interest. No authority, not even Parliament, could say that the mandate of Articles 14, 16, 23 would not operate for a period 1.1.1973 to 21.9.82 or 31.12.87."

4. Hence, the prayer of the applicants is as follows:

"The Hon'ble Tribunal may be graciously pleased to declare that the applicants in the grade of SSA in DRDO are entitled to pay parity with Foremen in DRDO ever since 1.1.1973 with arrears with 15% interest and consequential benefits in that and higher grades, direct respondent to pay the applicants accordingly within a specified time, grant any other relief, award cost".

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5. It was stated by the learned counsel for the respondents that the SLP has been allowed by the Supreme Court as mentioned above and it is in this context that the question of res-judicata has been raised by the learned counsel for the respondents.

6. None is present either for the applicants or for the respondents. The respondents were also directed to furnish copies of three other OAs filed in other Benches which also held that Government should implement the award from 22.9.82 and in respect of which the learned counsel for the respondents stated that appeals were filed before the Supreme Court and the orders of the Tribunal have been quashed by the Supreme Court. These documents have not been filed by the respondents.

7. We are, however, of the view that this application can be disposed of without this information.

8. It is seen from the O.A. that the award of the Board of Arbitration was announced on 12.8.85. The Board held that the award will come into operation from 22.9.82. If the applicants felt that the award should be given effect to from 1.1.73, as prayed in this O.A., the cause of action arose as early as 12.8.85. The applicants did not take any action then.

9. In the Ministry of Defence memo dated 11.11.88 the award was accepted by the Government w.e.f. 1.1.88 only. OA-952/89 was filed on 29.10.86 by the Scientific Workers Association (Regd) Kanpur and three others praying for implementation of the award w.e.f. 22.9.82. In other words, that O.A. was filed even before Government took a decision on the Award. The applicants could at least have challenged the Government order dated 11.11.88 by which it was decided to implement the award from 1.1.88 only, within time. This O.A. was filed only on 25.10.1990. Thus,

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(37)

we are of the view that on both these counts this application suffers from delays/^{and} laches and it is barred by limitation and hence is liable to be dismissed.

10. A similar matter has been disposed of earlier on 19.12.1994 to which one of us (Shri N.V. Krishnan, Vice-Chairman(A)) was a party. A copy of that judgement is also kept on record. In that order, we have come to the conclusion that the basic thrust of the reference to the Board of Arbitration was to provide one more level of promotion to the Senior Scientific Assistants and Draftsman. It was also highlighted in para 10 of the order that the claim to equality as between the SSA and the Foreman has no basis. Therefore, there is no foundation for the claims that the principle of equality has been violated from 1.1.73 and the award should be given effect to from that date.

11. The judgement of the Supreme Court in Union of India & Others Vs. Scientific Workers Association (Regd.) Kanpur and Others (JT 1993(3) SC 170) was delivered on 18.3.94. The question whether the award should be implemented from 22.9.82, as mentioned by the Board of Arbitration and directed by this Tribunal in OA-952/86 or whether it could be implemented from 1.1.88, as decided by Parliament by modifying the award, has already been concluded by the decision of the Supreme Court.

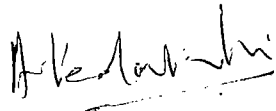
12. The applicants were fully aware of the proceedings before this Tribunal in OA-952/86 as well as in the Supreme Court. If they wanted to urge their point of view, they could have sought intervention in OA 952/86 or sought a review of the order of the Bench. They could even have approached the Supreme Court in writ for a decision



on this issue under Article 32 of the Constitution, as a violation of fundamental right is alleged and requested for a hearing of the writ along with the SLP filed by Government.

13. Not having done so, this application is vitiated by delays and laches as a result of which the O.A. is liable to be dismissed. In the view we have taken in para 12, it is not open to the applicants to claim the relief in the present O.A, which is also not maintainable for these reasons.

14. In the circumstances, we find this application is barred by limitation and is also otherwise not maintainable. Accordingly, it is dismissed. No costs.



(DR. A. VEDAVALLI)
MEMBER(J)



(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'Sanju'