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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 2763/2004

New Delhi, this the 28th day of July, 2005

Hon'ble Shri V.K.Majotra, Vice Chairman (A)
Hon'ble Mr. Shanker Raju, Member (J)

1. Pratap Singh S/o Sh. Khem Chand,
R/o 1170, Lodhi Complex, New Delhi.

2. Phool Singh S/o Shri Trikha,
R/o G-231, Sriniwaspuri, New Delhi.

3. Ch. Chander Pal S/o Sh. Tofa Singh,
R/o 34/177, Trilokpuri, New Delhi – 110091.

4. Jagbir singh S/o Sh. Deep Chand,
R/o F-105, Sewa Nagar, New Delhi.

5. Ram Khilawan,
S/o Sh. Buddhai,
R/o 3/3 D, DIA Area,
Gole Market, New Delhi.

6. Amar Chand S/o Kashi Ram,
R/o P-35, Sriniwaspuri, Private Colony, New Delhi.

7. Hari Ram S/o Sh.Paltu Ram,
R/o 88, Hauz Rani, New Delhi.

8. Mohinder Singh S/o Sh.Chiranji Lal,
R/o 3/33, Prem Nagar, New Delhi.

9. Sher Singh S/o Sh. Raghuveer Singh,
R/o 191/12, Weaker colony, Ballabgharh,
Faridabad.

10. Bishn Swaroop, S/o Sh. Lakhpat,
R/o 4650, New Modern Bhim Street,
Mandoli Road, Shadara, New Delhi..

11. Raghu Nath S/o Shri Ghisai,
R/o 15/394, Kalyanpuri, Delhi.

12. Harkesh S/o Sh. Shiv Bale Ram,
R/o Village Garhi, Lajpat Nagar, New Delhi.

13. Nathu Ram S/o Sh. Sohan Pal,
A-43, Pushp Vihar, New Delhi.

14. Kalu Sharma S/o Jhange Ram,
R/o 211, Jaunpur, Mehrauli, Delhi.

15. Sunder Lal S/o Sh. Changaram,
R/o 12/33, Akbar Road, Delhi.

16. Banwari Lal, S/o Shri Budhai Ram,
R/o 17/104, Kalyanpuri, New Delhi.

17. Kewal Ram S/o Sh. Bhup Singh,
R/o Village Chatterpur, New Delhi.

18. Khatir Jumma S/o Sh. Karam Sher,
R/o 499, Lodhi Complex, New Delhi.

19. Chhotu Ram S/o Shri Khiloji,
R/o H. No. 73, Lodhi Complex, New Delhi.

20. Doji Ram S/o Sh. Chiddi,
R/o 119; Block No. 8, Dakchhineri, New Delhi.

21. Maharaj Singh S/o Sh. Solu,
R/o 507, Kotla Mubarakpur, New Delhi.

22. Mahaveer Singh S/o Sh. Umraw Singh,
R/o WZ-78, Todapur, New Delhi – 110012.

23. Narayan Singh S/o Sh. Ram Saran,
R/o House No. 129, Block No. 21,
Kalyanpuri, New Delhi.

24. Bhajanlal S/o Sh. Sarwar,
R/o 119, Village Fatehpur Weri,
Mehrauli, New Delhi.

25. Jag Ram S/o Sh. Nepal Singh
R/o H-97, Nanakpura, Moti Bagh, New Delhi.

26. Umraw Singh S/o Sh. Hari Ram,
R/o D-192, Moti Bagh, New Delhi.

27. Munim Ram S/o Sh. Kalyan Singh,
R/o G-582, Srinivaspuri, New Delhi.

28. Raj Pal S/o Sh. Sh. Dungar Singh,
R/o 645, Lodhi Complex, New Delhi.

29. Mam Raj S/o Sh. Bharto,
R/o 398, Shahpur Jat, New Delhi.

30. Kali Charan S/o Hari Ram
D – 190, East Kidwai Nagar,
New Delhi – 110023.

31. Amar Singh S/o Sh. Chuttan,
R/o G-537, Srinivaspuri, New Delhi.

32. Sukhdev S/o Sh. Jhakri,
R/o 20/188, Trilokpuri, Delhi-110091

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33. Shiv Charan S/o Sh. Radha Kishan,
R/o H-II/304, J. J. Colony, Madangir, New Delhi.
34. Nathi Ram S/o Sh. Ganga Dhar,
R/o G-743, Sriniwaspuri, New Delhi.
35. Bhagwati Parshad, S/o Sh. Mohan Lal,
R/o 17/187, Pasona, Ghaziabad.
36. Ramlal S/o Sh. Chander Sen,
R/o F-41, Jawahar Park, Laxmi Nagar, New Delhi.
37. Vajinder Singh S/o Sh. Hari Chand,
R/o 247, Gali No. 11, Gopalpuri, New Delhi.
38. Srinivas S/o Sh. Ramdhari,
R/o P-1/196, Sultanpuri, Delhi - 110041.
39. Dharampal S/o Shri Ganga Dutt,
R/o 16/3186, Amritsar Puri, Tank Road,
Karol Bagh, New Delhi.
40. Jagdamba Saran, S/o Sri Ram
R/o E-16, Sector - 4, DIZ Area,
Raja Bajan, New Delhi.

....APPLICANTS

VERSUS

1. Union of India
Through Secretary Ministry of Urban Affairs and
Employment
Nirman Bhawan, New Delhi.
2. Director General Works
Central Public Works Department
Nirman Bhawan, New Delhi.

....RESPONDENTS

Appearances:

Applicants through Shri Inderjeet Singh, proxy for Shri L.R. Lurthra,
Advocate.

Respondents through Shri Anil Kumar Singh, Advocate.



ORDER (Oral)

Hon'ble Shri Shanker Raju, Member (J)

By virtue of this OA, a challenge has been made to Office Memorandum dated 16.9.2004 issued in pursuance of directions in OA-2080/2003 Shri Pratap Singh & Ors. Vs. Union of India & Ors, rejecting the request of applicants for pay scale of Rs.4000-6000.

2. Applicants, who were initially appointed as Malis and are presently working as Chowdharies. While Chowdharies have to perform duties and shoulder responsibilities of supervisory nature, yet they are placed at par in the matter of pay scale with senior Malis to whom they supervise. Again this anomaly, applicants filed OA-3255/2002, which was dismissed as withdrawn on 16.12.2002 to enable applicants to make representation. The representation preferred when not responded to led to filing of OA-2080/2003, which was disposed of with a direction to the respondents to pass a detailed and speaking order. A reasoned order passed when assailed in CP-192/2004 CP was disposed of on 17.9.2004 with liberty to applicants to take legal recourse.

3. Learned counsel for applicants states that action of the respondents not to revise the pay scale of applicants from 1.1.86 and again from 1.1.96 and placing feeder category and promotional post in the same pay scale offends ratio of the decision of the High Court of Delhi in **Meena Roy v. D.D.A.**, 2004 (3) SLJ 351. Learned counsel would contend that this aspect of the matter constitutes an anomaly which has not been considered in the impugned order by the respondents.

4. Whereas respondents' counsel vehemently opposed the contentions and stated that the Arbitration Award dated 31.1.1988 does not apply to

Chowdharies and as per V Central Pay Commission's recommendations category of Chowdhary has been merged with Senior Malis and re-designated as Grade-II Mali. The categories of Senior Mali and Chowdhary have been allowed the corresponding pay scale of Rs.3050-4590 in implementation of the recommendations of the V CPC.

5. We have carefully considered the rival contentions of the parties and perused the material on record. The High Court of Delhi in **Meena Roy's** case (supra) observed as under:

"12. To my mind, a promotional post cannot be placed in the same pay scale as a feeder post. A promotional post, of necessity, involves higher duties and responsibilities. It was not disputed by the Counsel for DDA that Personal Assistants and Personal Secretaries perform qualitatively and quantitatively more onerous duties than Senior Stenographers and that is the reason why they were placed in a higher pay scale. Recognizing the said fact, DDA had placed the Personal Assistants in a higher pay scale vis-à-vis Senior Stenographers. Replacement pay scales were given to the said post and while giving the replacement pay scales, conscious of the fact that nature and responsibilities of the duties were different, Personal Assistants were placed in a higher pay scale. DDA uniformly applied the date from which the replacement pay scales had to be made applicable to both categories of posts being 1.1.1996."

6. If one has regard to the above, we are of the considered view that having placed feeder category and promotional post of Chowdhary in the same pay scale, whereas Chowdharies supervise the work of Senior Malis; a person who has been in supervisory capacity and one who is supervised are brought at par without any distinction in the pay scale certainly creates an anomaly which is to be rectified on consideration by the appropriate authority. We cannot act as an expert body to divulge on this issue. We are also of the considered view that this aspect of the matter has not been considered by the respondents in their OM dated 16.9.2004.

7. In the result, for the foregoing reasons, OA is partly allowed. Impugned order is set aside. The matter is remanded back to the respondents to be re-considered having regard to the anomaly created and with reference to the decision of the High Court of Delhi in **Meena Roy's** case (supra). A detailed and speaking order shall be passed by the respondents within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra) 28.7.05
Vice-Chairman(A)

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