

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1920/2004, OA 1335/2004, OA 2779/2004 ✓

New Delhi, this the 15th day of April, 2005

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri M.K. Misra, Member (A)

OA 1920/2004

1. Shri D.S. Nim
S/o Late Shri Lekh Chand
Res. E-10A, New Govind Pura
Street No.2, Krishan Nagar,
Delhi - 110 051.
2. Shri C.D. Sindhwani
S/o Shri Late Karam Chand
Res. H.No.3164-C, Mohindra
Park, Rani Bagh, New Delhi - 34.
3. Shri Amar Nath Arora
S/o Late Shri Sawai Ram
Res. F-11/6, Krishan Nagar
New Delhi- 110 051.

(By Advocate Mrs. Madhu Tewatia)

...Applicants

V E R S U S
Union of India through

1. Its Secretary
Ministry of Defence
South Block, New Delhi.
2. Joint Secretary (Training) &
Chief Administrative Officer
Ministry of Defence, C-II
Hutments, New Delhi.

(By Advocate Shri S.K. Gupta)

...Respondents

OA 1335/2004

1. Shri C.B. Joneja
S/o Late Shri T.R.Joneja
R/o C4E, 165, Janak Puri
New Delhi 58.
2. Smt. Champa Hansraj
W/o Shri Hansraj
R/o C4F/159, Janakpuri
New Delhi - 58.
3. Shri Kartar Singh
S/o Late Shri Shyam Singh
R/o 395, Pocket 2, Paschim Puri
New Delhi.

4. Shri N.S. Yadav
S/o Late Shri Ram Karan
R/o 1116, Maruti Kunj
Bhondsi Gurgaon, Haryana.

5. Shri Ram Prasad
S/o Late Shri Surja Ram
Res. V&PO Jamalpuri
District Bhiwani, Haryana.

6. Smt. Pramod Bala Popli
W/o Shri B.M. Popli
R/o B-3/216, Paschim Vihar
New Delhi - 63.

7. Smt. Ishwari Bakhru
W/o Shri D.R. Bakhru
R/o 166B, LIG, DDA Flats
Vikrant Enclave, Mayapuri
Delhi.

8. Smt. S.B. Joneja
W/o Shri C.B. Joneja
R/o C4E/165, Janakpuri
New Delhi.

9. Smt. Sudesh Kumari Verma
W/o Shri Balraj Verma
R/o 257, MIG, DDA Flats, Pul
Pehlajpur, Suraj Kund Road, Suraj
Appartments, New Delhi - 44.

10. Shri Avtar Singh Kochhar
S/o late Shri Ram Singh Kochhar
R/o C-9/46, Sector VII-Rohini
New Delhi - 85.

11. Shri Satwant Singh Bhatia
S/o Shri Inder Singh Bhatia
R/o GH-9/446, Paschim Vihar
New Delhi.

12. Shri Sanjeev Saxena
S/o Late Shri R.K. Saxena
R/o B-7/181, Sector IV
Rohini, Delhi - 85.

13. Smt. Prabha Kumari
W/o Shri S.K. Tuli
R/o B-3/17, Janakpuri
New Delhi - 58.

14. Shri R.K. Kushwaha
S/o Late Shri Banarasi
R/o C-139, Brij Vihar
Ghaziabad, UP.

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15. Smt. S.K.Chauhan
W/o Shri L.R. Chauhan
R/o D-98, Saket,
New Delhi-17.
16. Mr. R.D. Anand
D/o Late Shri G.B. Anand
R/o C-144, Jhilmil Colony
New Delhi.
17. Shri Raj Pal Singh
S/o Shri Jagan Lal
A-17/18, Bhagwat Gali No.1
Brahampuri, Delhi - 53.
18. Shri Bishan Singh
S/o Shri Vasudev
C-238, Gali No.12
New Usmanpur, Seelampur
Delhi.
19. Ram Kumar Bhardwaj
S/o Late Shri Jage Ram
House No.537, Gali Brahaman Wali
Bawana, Delhi - 39.

(By Advocate Mrs. Madhu Tewatia)

...Applicants

V E R S U S

Union of India through

1. Its Secretary
Ministry of Defence
South Block, New Delhi.
2. Joint Secretary (Training) &
Chief Administrative Officer
Ministry of Defence, E-Block
DHQ Post Office, New Delhi - 110 011.

(By Advocate Shri S.M. Arif)

...Respondents

OA 2779/2004

1. Late Shri D.P.Nirwal through Smt. Tara Nirwal
R/o F-2983, Netaji Nagar, New Delhi - 110 023.
2. Shri R.V.Oke
S/o Late Shri V.N.Oke
R/o House No.6, MHADA HIG
Colony, Narendra Nagar, Nagpur - 440 015.

(By Advocate Mrs. Madhu Tewatia)

...Applicants

V E R S U S

Union of India through

1. Its Secretary
Ministry of Defence
South Block, New Delhi.

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2. Joint Secretary (Training) &
Chief Administrative Officer
Ministry of Defence, C-II
Hutments, New Delhi.

(By Advocate Shri Rao Vijay Pal)

...Respondents

ORDER (ORAL)

Mr. Shanker Raju,

As the issue involved is grounded on identical facts and a question of law, to avoid multiplicity, these are disposed of by this common order.

2. Non-extension of benefit of judgments whereby EDP Cadres have been accorded benefit of revision of pay scale with consequential benefits w.e.f. 1.1.1986 has been assailed.

3. In OA 1920/2004, applicants are Technical Assistants wherein in OA 1335/2004, applicants are also Technical Assistants in Joint Cipher Bureau and in OA 2779/2004 Technical Assistants have challenged orders of even date rejecting their request for grant of revision of pay scale w.e.f. 1.1.86.

4. Common relief has been sought in the present OAs for grant of revision of pay scale from 1.1.86 with consequential benefits as re-designated category of DPA Gr.B/Junior Programmer/Programmer and DPA Gr.B with all consequential benefits. In so far as the pay scales to the re-designated DPA Gr. A and B is concerned, Ministry of Defence vide order dated 11.11.97 in compliance of the directions in OA 2691/96 in **T.P. Kataria v. UOI** by an order dated 30.5.97 accorded all the benefits.

5. As regards the benefit to the Technical Assistants is concerned, the Division Bench of this Tribunal in OA 550/2004 in **R.K. Walia & Ors. v. UOI** decided on 7.12.2004 with the following observations, allowed the OA.

"6. Technical Assistants who had approached this court being aggrieved with the action of the respondents that the effective date of 1.1.86 has no reasonable nexus with the objects sought to be achieved and these qualifications have been introduced retrospectively through an administrative instruction. Applicants who are Technical Clerks are to be applied the above ratio mutatis mutandis and as in their case the qualifications have been introduced retrospectively, we do not deny that such a qualification on the basis of educational requirement is permissible, but the Recruitment Rules for want of any specific provisions incorporated cannot be applied

retrospectively to the detriment of the employees modifying or altering their service conditions.

7. In this view of the matter, over-ruling the objections raised by the learned counsel for the respondents, we are of the considered view the decisions in the case of B.N.Sharma as well as in OA 337/2002 are squarely applicable in the case of applicants being a ratio laid down in the aforesaid cases.

8. In the result, for the foregoing reasons, OA is allowed. Impugned orders are quashed and set aside. Respondents are directed to extend the benefits of the decisions (supra) to the applicants herein by granting DEO 'B' grade w.e.f. 1.1.86 with all consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs."

6. In another case by the Tribunal in OA 804/2004 decided on 23.12.2004 *Satya Prakash v. UOI* reiterated the aforesaid directions.

7. Learned counsel for the applicants states that the applicants are identically situated and cannot be deprived of the extension of benefits of these judgments.

8. On the other hand, respective counsel for the respondents in the OAs vehemently opposed the contentions and stated that ratio would not apply to the present cases and non-applicants cannot be granted the benefits.

9. On careful consideration of the rival contentions and having regard to the decision of the Apex Court by the Constitution Bench in *K.C. Sharma v. UOI* (1998)(SLJ SC 54), benefit of decision cannot be denied to similarly circumstanced is within object to avoid multiplicity and wastage of exchequer.

10. Having regard to the facts in question, we are satisfied that the applicants are in all four covered by the decision of the Tribunal referred to supra and are entitled to the benefits thereof.

11. In the result, OAs are allowed. Impugned orders are set aside. Respondents are directed to extend to the applicants benefits of decision in *Satya Prakash* and *R.K. Walas's* case supra and while computing consequential benefits, their claim for DPA Gr. A and B with

consequential benefits and arrears would also be considered as accorded to the similarly circumstanced. The aforesaid exercise shall be completed within a period of 3 months from the date of receipt of a copy of this order. Copy of this order shall be kept in all the files.

(M.K. Misra)
Member (A)

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(Shanker Raju)
Member (J)

Attested

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02/07/2005