

Central Administrative Tribunal, Principal Bench

O.A. No. 3019/2005

New Delhi this the 16th day of August, 2005

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Mr. S.K. Malhotra, Member (A)

1. Gobind Singh
S/o Shri Ucchar Singh
Retired on 30.9.2002 (Tractor Driver)
R/o 104/1 Double Story,
Gobind Puri,
Modi Nagar,
District Ghaziabad (UP).
2. Janak Singh
S/o Shri Kishan Lal
Tractor Driver,
Equine Breeding Stud.,
Babugarh (UP).
3. Bhoop Singh
S/o Shri Mukh Ram
Retd. 30.4.1999 (Tractor Driver)
R/o 1921, New Pauna Puri,
Garh Road,
Hapur (UP), District Ghaziabad.
4. Jatinder Singh
S/o Shri Jagdish Singh
Tractor Driver,
Equine Breeding Stud.
Babugarh (UP).
5. Mahinder Singh (Deceased)
S/o Shri Dharam Singh
Through L.R. Satwati
W/o Late Shri Mahinder Singh
Expired on 2.10.2002
Tractor Driver,
Equine Breeding Stud.,
Babugarh (UP).

....Applicants

By Advocate: Shri G.D. Bhandari.

Versus

Union of India Through

1. The Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. The Additional Director General RV (RV-1),
Quarter Master General's Branch,
Army Head Quarters,
West Block No.3,
R.K. Puram, New Delhi.

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3. The Sr. Record Officer,
Remount Veterinary,
RVC Records,
Meerut Cantt. (UP).
 4. The Commandant,
Equine Breeding Stud.,
Babugarh (UP).
 5. The CDA (Army),
Meerut Cantt. (UP).
 6. The A.G. Army HQ,
RVC-RVI, Org. 4 (Civil) (d),
West Block No.3,
R.K. Puram,
New Delhi.
- .Respondents

By Advocate: Shri D.S. Mahendru.

ORDER

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicants have filed this OA for a direction that they should be given the benefit of the order of this Tribunal in OA 2741 /1999 titled Alam Singh Vs. Union of India and Others and should be placed in the pay scale of Rs.320-400 with effect from 1981, Rs.1200-1800 with effect from 1.1.1986, Rs.4000-6000 with effect from 1996 and Rs.4500-7000 with effect from 1999 in accordance with the recommendations of the Pay Commission and for payment of consequential monetary benefits with interest at the rate of 24% per annum.

2. The applicants are Civilian Tractor Drivers of the Defence Department. They were appointed in the year 1982 in the pay scale of Rs.260-390. Their grievance is that they should have been placed in the grade of Rs.320-400 from the date of their appointment. On the implementation of the 4th Pay Commission Report from 1.1.1.986, they should have been granted replacement scale of Rs.1200-1800 instead of Rs.950-1500. They were given in situ promotion in April, 1995 and were given the pay scale of Rs.975-1660 instead of Rs.1200-1800. Furthermore, after the implementation of the 5th Pay Commission report with effect from 1.1.1996, they were entitled to be granted pay scale of Rs.4000-6000 instead of Rs.3200-4900. They have submitted that their job was strenuous and onerous as compared to Motor Drivers who were given the higher pay scale. Moreover, certain Tractor Drivers of Remount Training School and Depot Saharnapur (RTS for short) who were similarly situated persons filed OA 2741/1999

titeld Alam Singh and Others Vs. Secretary of the Ministry of Defence, Government of India which was decided on 13.7.2000 and the applicants therein were directed to be placed in the pay scale of Rs.1200-18000 with effect from 1.4.995 when they were granted in situ promotion and the pay scale of Rs.4000-6000 with effect from 1.1.1996 in accordance with the report of the 5th Pay Commission. It is submitted that the order has become final as the same has been implemented by the respondents. The applicants being similarly situated should also be extended the benefit of this order.

3. The respondents countered the claim of the applicants and pleaded that Alam Singh and Other applicants in the referred OA were not similarly situated persons. The pay scale of all the Industrial Workers of RTS was revised in accordance with the pay structure order dated 16.10.1981 and the pay scale of Tractor Driver was revised from Rs.320-400 to Rs.260-400. The applicants having been appointed after the fixation of the pay of Industrial Workers, as aforesaid, in 1982, were not entitled to the pay scale of Rs.320-400 whereas Alam Singh and Other applicants were appointed prior to 16.10.1981, therefore, they were given replacement scale which was higher pay scale in accordance with the recommendations of the 4th Pay Commission and on the same basis they got subsequent pay scale and in situ promotion as per the recommendations of the 5th Pay Commission.

4. We have heard the learned counsel for the parties and perused the relevant record.

5. The reliance of the applicants on the order of Alam Singh and Others for extending the benefit of the order to them is misplaced. Alam Singh and Others were appointed prior to 16.10.1981. The pay scale of the Industrial Workers of RTS was revised vide this order, copy of which is Annexure R-11. As per this revision of pay, the Tractor Drivers who were earlier in the pay scale of Rs.320-400 were given the pay scale of Rs.260-400. In terms of para 6 of the order dated 16.10.1981 in case the fitment resulted in down-gradation of the job, incumbents thereof were allowed to draw pay in the existing scale of pay till they were wasted out or promoted to the next higher post. It was further stated therein that future entrants/promotees to this grade would, however, be given the revised pay scale. Alam Singh having been appointed in the pay scale of Rs.320-400 when the pay scale of the post of Tractor Driver was revised to Rs.260-400 by order dated 16.10.1981 was entitled to retain his pay scale which was protected by

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para 6 of the order itself. They were also granted revised lower pay scale. They were aggrieved and filed OA No. 2741/1999 which was allowed by the Tribunal and their pay scale of Rs.320-400 was restored. As a consequent, they were granted higher replacement scale w.e.f. 1.1.1986 as per 4th Pay Commission report. The pay scale granted as in situ promotion was also higher and resultantly they got higher replacement scale at the time of implementation of 5th Pay Commission report w.e.f 1.1.1996.

6. Learned counsel for the applicants has fairly given up the claim of the applicants so far as it related to the grant of pay scale of Rs.320-400 with effect from their date of appointment to 31.12.1985. However, it is argued that the applicants ought to have been given the same replacement pay scale as was given to Alam Singh and other similarly situated persons as per the recommendations of the 4th Pay Commission at the time of in situ promotion in 1995 and lastly as per the recommendation of the 5th Pay Commission with effect from 1.1.1996. The applicants have not been able to justify it. Alam Singh and other persons who were appointed prior to the revision of the pay structure in 1981 were getting the higher pay scale and on that basis got higher replacement pay scale in 1986 and at the time of in situ promotion in 1995 and higher replacement pay scales on the basis of 5th Pay Commission. The present applicants will not be entitled to the same pay scales at par with Alam Singh and others.

7. Though the relief was claimed for grant of pay scale and other consequential benefit which was given to Alam Singh pursuant to the order of this Tribunal but the applicants have also contended that they were performing duties which were more strenuous and arduous than the Civilian Motor Drivers. It is not for the Tribunal to decide whether the duties performed by the Tractor Drivers are comparable or more arduous and onerous in nature. The pay scale in which the Tractor Drivers and Civilian Motor Drivers are to be placed is the prerogative of the Government Policy. The Tribunal would not interfere with this State Policy unless it is unfair and mala fide or it is contrary to the statutory provisions and rules or is in violation of the Constitution. In this case we do not find any such situation for us to interfere with the orders.

8. In Sher Singh and Others Vs. U.O.I & Others, JT 1995 (8) SC 323 the Hon'ble Supreme Court was dealing with a claim of a Librarian of Delhi University for parity in the pay scale between the teaching staff and library staff of its colleges. The

Hon'ble Supreme Court made the following observations which are aptly reproduced below:-

“ If the Government as a matter of policy had equated the library staff for the purposes of pay scales earlier for a certain period as contended by the appellants, they should be thankful to the Government as they could not have claimed the parity as of right. In any case that was the decision of the Government which had allowed the equation of pay scales during the period from 1961 to January 1, 1973. Later, if the Government had taken a policy decision to grant parity again with effect from 1.7.1973 when it was disturbed there could be no legitimate grievance for the same because the Government has the right to change its policy from time to time, according to the administrative exigencies and demands of the relevant time. As a matter of fact the Courts would be slow in interfering with matters of Government Police except where it is shown that the decision is unfair, or mala fide or contrary to any statutory directions. There will be no justification for the Court to interfere with the policy of the Government merely on the ground of change in the policy. If earlier the Government took a policy decision to grant parity to the library staff with the teaching staff it was the policy of the then Government and if for certain reasons the Government took a different policy decision to withdraw the parity and to enforce from a certain date it will again be a matter of policy of the Government and it is not for the Courts to interfere with such policy decisions of the Government. Normally the Courts will not dictate the decision of the statutory authority in exercise of its discretion and formulation of its policies. The Court will not direct the statutory authority to exercise the discretion in a particular manner not expressly required by law. The Court can only command the statutory authority by a Writ of Mandamus to perform its duty by exercising the discretion according to law. This was also the view expressed by the Court in U.P. State Road Transport Corporation and Another Vs. Mohd. Ismail and Others (1991) 3 SCC 239”.

9. The Government in its wisdom has downgraded the pay scale of Tractor Drivers and the Tribunal, in view of the provisions of law laid down in the above judgment would not interfere with it.

10. The result of the above discussion is that there is no merit in the OA. It is dismissed but without any order as to costs.

Malhotra
(S.K. Malhotra)
Member (A)

Rakesh

M.A. Khan
(M.A. Khan)
Vice Chairman (J)