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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 3072/2004

New Delhi, this the 15th day of February, 2007

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri V.K. Agnihotri, Member (A)

1. Smt. Vimlesh Pushkarna
W/o Shri S.K.Pushkarna
3529B, Raja Park,
Delhi 110 034
2. Smt. Gurdeep Kaur
W/o Shri R.P. Singh
19/10, Tilak Nagar,
Delhi
3. Smt. Saroj Dhall
W/o Shri Sunil Dhall
WZ-43A, Rattan Park,
New Delh-110 015
4. Shri Parti Pal Singh
S/o Shri G.S.Premi
E-5C, Sudershan Park,
Moti Nagar, New Delhi-110 015
5. Smt. Neelam Dewan
W/o Shri A.K.Dewan
AD-29B, Power Apartments,
Pitampura, New Delhi -110 088

...Applicants.

(By Advocate: Shri Susheel Sharma)

-VERSUS-

1. UNION OF INDIA
Through The Secretary
Ministry of Defence
South Block,
New Delhi.
2. Director General of Ordnance Services (OS-20)
MGOs Branch,
Sena Bhavan,
Army Headquarters, DHQ PO,
New Delhi-110 011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cant-110 010



4. CSO (A)
Personal Officer (Civ)
Establishment (NI) Branch,
Central Ordnance Depot,
Delhi Cantt. – 110 010.

..Respondents.

(By Advocate: Sh. D.S.Mahendru)

ORDER (ORAL)

Shri Shanker Raju, Member (J)

Heard the learned counsel.


2. Insofar as relief claimed by the applicants for fixation of pay on merged Group of Grade 'B' and 'C' of DEO is concerned, we grant liberty to the applicants to assail the grievance before the appropriate proceedings.

3. Earlier when this OA was dismissed on 16.08.2005, RA No.246/2005 was filed by the applicants raising ground of discovery of new material i.e. a decision of the Coordinate Bench in **Rajinder Kumar Pareek & Ors. v. Union of India & Ors.** in 1218/2002 dated 14.02.2003, which was allowed on 10.10.2006 and the matter was recalled for rehearing only on the limited question whether the applicants can be given the benefit of the order of the Coordinate Bench in Rajinder Kumar Pareek case or not. The learned counsel for the applicants Shri Susheel Sharma stated that the Tribunal in Pareek's case clearly ruled that since the Ministry of Finance vide their letter dated 03.05.1995 revised the scale of pay of those DEO Grade A, who were graduate, on the basis of Sheshadri Committee's Report and the decision dated 10.02.2000 in OA 351/1999 granting EDP scale w.e.f. 31.01.1986, the applicants in Pareek case were entitled to be accorded the benefit and accordingly allowed the OA directing the respondents to accord revised scale of Rs.1350-2200 w.e.f. 01.01.1986, with all consequential benefits.



4. Learned counsel for the applicants also relied upon the decision of the Kerala High Court in the case of **Administrator U.T. of Lakshadweep v. Kunnashada Muthukoya**, 2001 (1) ATJ 81, to contend that on the recommendations of the 4th Pay Commission new pay scale to be fixed on the basis of old pay scale drawn by an employee as the classification of posts is relevant and not the old scale corresponding to which the new scale is fixed. Accordingly, Shri Sharma states that being similarly circumstanced, as in Pareek's case (supra), the applicants are entitled for the relief sought for.

5. On the other hand, respondents' counsel Sh. D.S. Mahendru vehemently opposed the aforesaid contention and stated that insofar as the applicants are concerned, they are granted non-functional in situ promotion to the Grade 'B' under the ACP and would continue to be borne on the seniority list of lower grade and will be considered for functional promotion only against the available vacancies. However, higher pay scale of DEO Grade 'B' was granted to the applicants. Insofar as other reliefs are concerned, we are not dwelling upon them as we limited the scope of our interference in RA, we will not go into the merits of this aspect of the matter. Finding no satisfactory explanation as to whether the applicants, in any manner, form a different class or do not deserve the extension of benefit of decision in Pareek's case, being dissimilar or their cases are distinguishable, we find that the applicants, who are similarly circumstanced being graduate, are entitled to be accorded the benefits of the scale which has been granted to the applicants in Pareek's case w.e.f. 1.1.1986. On grant of pay scale to the applicants w.e.f. 1.1.1986 with all arrears, their further right for revision of the pay scale as per Shesagiri





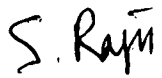
Committee's recommendations would be dealt with in due course with an opportunity to them under law.

6. We make it clear that insofar as the fact of the applicants being graduate would have to be strictly dealt with in the light of ratio in Pareek's case wherein graduation in the light of abolition of DEO Grade 'A' has not been found to be apt for impleading the rights of the DEO accorded benefit of pay scale from 01.01.1986..

7. In the result for the foregoing reasons OA is partly allowed. The impugned order passed by the respondents insofar as it denies the grant of pay scale under 4th CPC recommendations to the applicants w.e.f. 1.1.1986 is set aside. Respondents are directed to accord to the applicants the pay scale w.e.f. 1.1.1986 with all arrears and allowances thereof as done in Pareek case within two months from the date of receipt of copy of this order.



(V.K.Agnihotri)
Member (A)



(Shanker Raju)
Member (J)

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