

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.3073/2004

With

O.A. NO.3094/2004

O.A. NO.3096/2004

O.A. NO.3097/2004

O.A. NO.2417/2004

M.A. NO.2056/2004

This the 30th day of November, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

O.A. NO.3073/2004

Smt. Sneha Prabha Khanna W/O M.K.Khanna,
9/926, Prem Gali No.3, Gandhi Nagar,
Delhi-110031.

... Applicant

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General Ordnance Services (OS-20),
MGOs Branch, Sena Bhawan,
Army Headquarters, DHQ PO,
New Delhi-110011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.

... Respondents

O.A. NO.3094/2004

Smt. Shobha Salwan W/O D.Salwan,
P.No.6957098,
C-9/0237, Vasant Kunj,
New Delhi.

... Applicant

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General Ordnance Services (OS-20),
MGOs Branch, Sena Bhawan,
Army Headquarters, DHQ PO,
New Delhi-110011.

3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.

... Respondents

O.A. NO.3096/2004

Smt. Savitri Bhutan,
P.No.6958252,
DEO Grade 'B',
Central Ordnance Depot,
Delhi Cantt-110010.
(Under Ministry of Defence).

... Applicant

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General Ordnance Services (OS-20),
MGOs Branch, Sena Bhawan,
Army Headquarters, DHQ PO,
New Delhi-110011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.

... Respondents

O.A. NO.3097/2004

Smt. Sneha Lata Saxena W/O O.P. Saxena,
F-92, Venus apartments,
Sector-9, Rohini, Delhi-110085.

... Applicant

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General Ordnance Services (OS-20),
MGOs Branch, Sena Bhawan,
Army Headquarters, DHQ PO,
New Delhi-110011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.

... Respondents

O.A. NO.2417/2004, M.A. NO.2056/2004

1. Smt. Manjula Tigga W/O Arun Tigga,
68A, Humurpur, S.D.F., New Delhi.

2. Smt. Sarita Bhatia W/O Prem Bhatia,
5/63, Subhash Nagar, Delhi-110028.
3. Smt. Kusum Lata W/O Khem Chand,
705 B15 Ward No.3, New Delhi.
4. Smt. Shobha Johri W/O V.R.Johri,
S-1774, R.K.Puram, New Delhi.

... Applicants

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Director General Ordnance Services (OS-20),
MGOs Branch, Sena Bhawan,
Army Headquarters, DHQ PO,
New Delhi-110011.
3. The Commandant,
Central Ordnance Depot,
Delhi Cantt-110010.
4. CSO(A),
Personal Officer (Civ),
Establishment (NI) Branch,
Central Ordnance Depot,
Delhi Cantt-110010.

... Respondents

... Respondents

Present : Shri K.K.Sharma, Advocate, for Applicants in all the OAs.
Shri R.N.Singh, Advocate, for Respondents (OA-3073/04);
Shri T.C. Gupta, Advocate, for Respondents (OA-3096/04);
Shri A.K.Singh, Advocate, for Respondents (OA-2417/04).

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

The facts and issues involved in these OAs being identical, they have been taken up together and are being disposed of by these common orders. For the sake of convenience, the relevant facts have been taken from OA No.3073/2004.

2. Applicant has challenged respondents' orders dated 7.10.2004 passed in pursuance of Tribunal's directions in OA No.53/2004 directing respondents to take final decision on the claims of applicant for according

15
pay scale of Rs.5000-150-8000 in terms of the recommendations of the Fifth Central Pay Commission (CPC), within a stipulated period of four months.

3. Briefly stated, the facts of the case are that applicant initially joined respondents as KPO on 5.12.1970. Subsequently this post was re-designated as Data Entry Operator (DEO). In 1989 pursuant to the recommendations of the 4th CPC this post was divided into four grades as under:

- “(i) DEO Gr. ‘A’ in the Pay Scale of Rs.1150-15-1500
- (ii) DEO Gr. ‘B’ in the Pay Scale of Rs.1350-30-1440-40-1800-50-2200
- (iii) DEO Gr. ‘C’ in the Pay Scale of Rs.1400-40-1800-50-2300
- (iv) DEO Gr. ‘D’ in the Pay Scale of Rs.1600-50-2300-60-2600”

4. Applicant was accorded *in situ* promotion in DEO Grade ‘B’ in the year 1994. In 1997 under RPR-97 as per Part-A of Ministry of Defence notification dated 9.10.1997 the grades of DEOs were revised as under:

- “(a) DEO Gr. ‘A’ Rs.3050-75-3950-80-4590
- (b) DEO Gr. ‘B’ Rs.4500-125-7000
- (c) DEO Gr. ‘C’ Rs.4500-125-7000
- (d) DEO Gr. ‘D’ Rs.5000-150-8000”

5. Based on the recommendations of the 5th CPC as notified in Part B and C of Government notification dated 9.10.1997, Ministry of Defence vide its letter dated 11.11.1997 granted higher pay scales to Electronic Data Processing Staff (DEO Grades ‘A’, ‘C’ and ‘D’). Grade ‘B’ was not mentioned therein since it stood merged with Grade ‘C’ by replacing both the pay scales of Rs.1350-2200 and Rs.1400-2300 meant for Grade ‘B’ and ‘C’ respectively into a common pay

16

scale of Rs.4500-7000. As such, the following three grades became available to DEOs:

“DEO Grade ‘A’ Rs.4000-100-6000

DEO Grade ‘C’ Rs.5000-150-8000

DEO Grade ‘D’ Rs.5500-175-9000”

6. Applicant has claimed that as she was drawing the scale of DEO Grade ‘B’ prior to implementation of the recommendations of the 5th CPC, her pay deserves to be fixed in the scale of DEO Grade ‘C’ in the revised pay scale of Rs.5000-150-8000, as her scale stood merged with Grade ‘C’. Though applicant was given pay scale of Rs.5000-150-8000 through ACP w.e.f. 9.8.1999, applicant claims that this scale should have been given to her w.e.f. 1.1.1996 in terms of Ministry of Defence letter dated 11.11.1997 in which the pay scale of DEO Grade ‘C’ was revised to Rs.5000-8000 w.e.f. 1.1.1996. Benefit of ACP, if any, due to applicant should have been given to her after fixing her pay in the scale of Rs.5000-8000 w.e.f. 1.1.1996.

7. The learned counsel of respondents contended that the present case is fully covered by an order dated 16.8.2005 passed in an identical OA No.3072/2004 *Smt. Vimlesh Pushkarn & Others v Union of India & Others*, which was dismissed. In this connection, the learned counsel of applicant stated that the case relied upon by respondents is subject to a review petition filed by diary No.9696 dated 24.11.1005.

8. The facts and issues involved in the present case are similar to those of the case of *Smt. Vimlesh Pushkarna*. Relying on the ratios in the cases of *State of Haryana & Another v Haryana Civil Secretariat Personal Staff Association*, JT 2002 (5) SC 189 and *P.U.Joshi & Others v The Accountant General, ahmedabad & Others*, 2003 (1) SCC (SLT) 239, it was held in *Smt. Vimlesh Pushkarna* (supra) that the grant of pay scale of different categories of employees

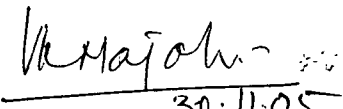
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falls in the domain of the policy of the State with which the Tribunal under power of judicial review could not interfere unless the policy is *mala fide* or it is in contravention of the statutory provision or the provision of the Constitution. It was found that placement of the applicant therein in Grade 'A' w.e.f. 1986 or revision of the scale of DEO Grade 'C' upgrading it subsequently did not infringe any of the rules, statutory provision or the provisions of the Constitution. The same case was dismissed.

9. In our considered view, the present cases are fully covered by the aforesaid decision in the case of *Smt. Vimlesh Pushkarna* (supra). As such, the present cases too are dismissed being without merit. It may be stated here that pendency of a review petition filed vide diary No.9696 dated 24.11.2005 against the decision in the matter of *Smt. Vimlesh Pushkarna* (supra) would not matter at present as in any case it is directed that the present decision shall also be subject to the decision in the said review petition.


(Mukesh Kumar Gupta)
Member (J)
/as/


30.11.05
(V. K. Majotra)
Vice-Chairman (A)