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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 1870/2004

New Delhi this the 13th day of September, 2005

Hon'ble Shri V.K. Majotra, Vice Chairman (A).
Hon'ble Smt. Meera Chhibber, Memembr (J).

1. Hari Om
S/o Sh. Neki Ram,
R/o V&PO Fazilpur,
Jhadsa, Distt. Gurgaon (Haryana).
2. Rajpal Singh,
S/o Sh. Harnam Singh,
R/o H-609, Srinivas Puri,
New Delhi.
3. Subhash Kumar,
S/o Sh. Ajab Singh,
R/o B-4/25, Swaran Jayanti Vihar,
Tikri Khurd, Narela, Delhi-40.
4. Atma Ram,
S/o Sh. Thana Ram,
R/o Vill. Sadrada,
PO Garhi Harsaru,
Distt. Gurgaon (Haryana).
5. Hukum Singh,
S/o Sh. Surender Singh,
R/o H. No. 355, Sector-3,
MB Road, Pushp Vihar,
New Delhi-110017.
6. Mohanti Paswan,
S/o Thithar Paswan,
R/o Vill & PO Mandi Gaon,
Distt. Mehrauli, Delhi-110047.
7. Omvir,
S/o Sh. Ramchander,
R/o Vill & PO Gwalpahari,
Distt. Gurgaon, Haryana.
8. Jagdish,
S/o Sh. Srikishan,
R/o Vill & PO. Anangpur (Balmeeki Mohalla),
Faridabad, Haryana.
9. Hari Ram,
S/o Lok Ram Punia,
R/o Vill. Pathreri, Distt. Gurgaon. Applicants.

(None present)

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Versus

Union of India & Ors. through

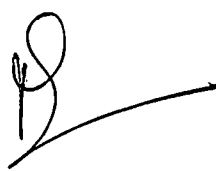
1. The Secretary,
Govt. of India,
Ministry of Non-conventional
Energy Sources,
Solar Energy Centre,
Block No. 14,
CGO Complex, New Delhi.
 2. The Director/Advisor & Head SEC,
Solar Energy Centre,
Block No. 14,
CGO Complex,
New Delhi.
- Respondents.

(By Advocate Shri Surendra Kumar)

ORDER

Hon'ble Mrs. Meera Chhibber, Member (J).

By this O.A., applicants have challenged the order dated 20.5.2004 (page 14) whereby they have been granted first financial upgradation in the scale of Rs.2610-3540, in terms of the ACP Scheme dated 9.8.1999. Applicants have prayed for a direction to the respondents to place them in the pay scale of Rs.3050-4590 instead of Rs.2610-3540, on the ground that they were all appointed on technical posts of Helper 'A' and the next technical promotional post in the Department is that of Tradesman Group 'A' in the scale of Rs.3050-4590. They have submitted that even the Tradesmen A in Solar Energy Centre (SEC) were initially granted first financial upgradation in the scale of Rs.3200-4900 but on subsequent repeated representations of the Tradesmen, they were placed in the pay scale of Rs.4000-6000, which is the pay scale given to Tradesman 'C' after 5th Central Pay Commission. Therefore, applicants are also entitled to get the pay scale meant for next technical post/promotional post and they cannot be discriminated against. They have further submitted that there is no pay scale of Rs.2610-3540 in the Department and even the Group 'D' (Beldar) employees of CPWD have been given the first upgradation in the pay scale of Rs.3050-4590. Therefore, they cannot be treated in a different manner. The said Beldars were



also getting the pay scale of Rs.2550-3200, as was the scale of Helper 'A' in the respondents organization. They have thus prayed that the O.A. may be allowed.

2. Respondents have opposed this O.A. They have submitted that the applicants were posted as Helper 'A' in the scale of Rs. 2550-3200 but these are not technical posts under the Recruitment Rules. The qualification required for Helper 'A' is only 8th class pass whereas the post of Tradesman 'A' in the pay scale of Rs.3050-4590 is the lowest technical post in the existing hierarchy. The qualifications required for the post of Tradesman 'A' in SEC are ITI Certificate with one year experience or metric with four years experience in the relevant trade. Moreover, the post of Tradesman 'A' is not to be filled by way of promotion. Therefore, it is wrong on the part of the applicants to state that Tradesman 'A' is the promotional post for them.

3. On the point of discrimination, they have explained that initially there were five categories of Tradesman, namely, A, B, C, D and E but after the 5th Pay Commission, the post of Tradesman 'B' is no longer in existence. Therefore, initially the standard pay scale of Rs.3200-4900 was granted to the Tradesman 'A' but on their representation, the case was re-examined by an Anomaly Committee and it was decided to grant first financial upgradation in the pay scale of Rs.4000-6000 because Tradesman 'C' is in the hierarchy in the cadre of Tradesman 'A'. Moreover, the qualification for Tradesman A, C, D and E are same i.e. ITI Certificate in the relevant trade. They have further explained that although pay scale of Rs.2610-3540 is not in existence in SEC but it is a standard pay scale S-2 fixed by the 5th Central Pay Commission, as is mentioned in the O.M. dated 9.8.1999 of the DOPT. As far as CPWD is concerned, they have explained that some Group 'D' posts have been granted financial upgradation from S-1 pay scale to S-5 pay scale (Rs.3050-4590) because in their RRs, a provision has been made for promotion from S-1 Grade to S-5 Grade after qualifying some departmental trade tests and trainings but there is no such provision in SEC. They have thus submitted that here is no merit in the O.A. The same may accordingly be dismissed.

4. We have heard counsel for the respondents and seen the pleadings. The whole case of applicants is that they are holding a technical post and the post of





Tradesman 'A' is the next promotional post in the hierarchy. On perusal of the Recruitment Rules which have been annexed by the respondents, it is seen that the post of Tradesman 'A' is a technical post and the technical qualification and other qualifications required are Certificate Course from Industrial Training Institute with one year experience or matric with four years experience in the relevant trade. It is not a promotional post and under Column 12, the mode of recruitment is shown to be by transfer on deputation/transfer, failing which by direct recruitment, meaning thereby that it could not have been filled by way of promotion and even for filling up by post on deputation/transfer, only such of the persons could be considered, who are holding analogous posts on regular basis and possessing certificate course from Industrial Training Institution with one year's experience or matric with four year's experience in the relevant trade whereas the recruitment rules for Helper 'A' show that the only educational qualification required for the post of Helper 'A' is Middle Class pass from a recognized school or Board. The post of Helper A is in the grade of Rs.2550-3200 whereas the post of Tradesman A is in the scale of Rs.3050-4590. Therefore, by no stretch of imagination, the applicants can be said to be holding analogous posts as neither they have the educational qualification nor experience in the said trade nor their pay scale is equivalent with that of Tradesman A. Moreover, in the RRs of Tradesman A, this is not shown to be a promotional post from amongst Helper A. Therefore, the contention of applicants that the post of Tradesman A is a promotional post for Helper A is not sustainable in law. The same is accordingly rejected. Applicants have stated that since they were working with the technicians, they were also holding a technical post but it is not necessary that Helpers to the technicians also hold the technical post because their basic work is to assist the technicians as per their command. The Helper A do not have any technical qualification and the basic requirement is only 8th class pass. Respondents have specifically stated that the post of Helper A is a non-technical post. The applicants have not demonstrated as to what duties they are performing as Helper A. Therefore, in the absence of any averments to that effect, no contrary finding can be recorded with regard to the nature of duties performed by the applicants.

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5. The question then arises as to what scale could have been given to Helper A due to the benefit of ACP Scheme. The only claim made by the applicants in this case is that they should have been put in the scale of Rs.3050-4590, that is of Tradesman A, on the analogy that Tradesmen A were also initially not given the next scale of Rs.4000-6000, which is given to Tradesman C but it is only on their representation that the scale was given to the Tradesman A. The respondents have explained that Tradesmen A were given the scale of Rs.4000-6000 on reconsideration by the Anomaly Committee because Tradesman C was the promotional post for Tradesman A after the post of Tradesman B was done away with. Similarly, in CPWD also, the Belders have been given the scale of Rs.3050-4590 because they are in the feeder cadre for the promotional post in the scale of Rs.3050-4590 whereas we have just explained above that the post of Tradesman A is not the promotional post for Helper A, therefore, it is not open to the applicants to say that they are being discriminated against.

6. In the Scheme dated 9.8.1999, Para 7 deals with isolated posts wherein it is categorically stated that in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay scales as indicated in Annexure-II which is in keeping Part A of first schedule annexed to the Notification dated 30.9.1997 of the Ministry of Finance. As per Annexure-II, the next grade from S-I is S-2 i.e. from Rs.2550-3200 to Rs.2610-3540 and it is this scale which has been given to the applicants. After ACP Scheme of 9.8.1999 was issued, there were certain queries raised by the Ministries/Departments as to how the isolated posts are to be given the benefit of ACP Scheme. The query was answered as follows:

"For isolated posts, the scales of pay for ACPs shall be the same as those applicable for similar posts in the same Ministry/Department/Cadre except where the Pay Commission has recommended specific pay scales for mobility under ACPs. Such specific cases may be examined by respective Ministries/Departments in consultation with the Department of Personnel and Training. In the case of remaining isolated posts, the pay-scales contained in Annexure-II of the Office Memorandum dated August 9, 1999 (ACPS) shall apply".

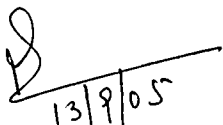


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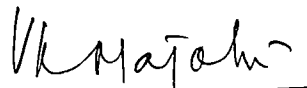
7. In this background, if the facts of present case are seen, it is an admitted position that the post of Helper A is an isolated post in SEC. In fact, respondents have admitted in Para 4.7 that the scale of Rs.2610-3540 is not in existence in SEC but is a standard pay scale, as per O.M. dated 9.8.1999. From the order passed by the respondents dated 20.5.2004, which has been impugned before us, it is seen that not only Helper A but even Cleaner and Chowkidar in SEC, who were in the pay scale of Rs.2550-3200, as was the scale of Helper A have been placed in the same pay scale, namely, Rs.2610-3540 as per standard pay scale S-2, meaning thereby that there are no other pay scale available in the Ministry even in equivalent posts and others have also been given the same pay scale, which has been given to the applicants, therefore, no case for interference is made out.

8. Applicants have not been able to demonstrate any other O.M. under which they could have been granted the pay scale of Rs.3050-4590. Since the post of Tradesman A is not a promotional post, we are satisfied that the said scale could not have been given to the applicants, as claimed by them.

9. In view of the above, we find no merit in the O.A. The same is accordingly dismissed. No order as to costs.


13/9/05
Mrs. Meera Chhibber)
Member (J)

'SRD'


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