

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

(13)

O.A. NO.580 of 2004

With

O.A.NO.581 of 2004

O.A. NO.582 of 2004

New Delhi, this the 31st day January, 2005

**Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)**

O.A. No.580 of 2004

1. Shri Hari Krishna Sharma
S/o Shri Late B.S. Sharma
R/o F-88, Nanakpura,
New Delhi.
2. Shri Bhoop Singh Parasar
S/o Late Shri Gopi Chand
R/o 3/18, NW Moti Bagh,
New Delhi.
3. Shri Tulsi Narain
S/o Shri Hari Gobind
R/o 29/C, Prasad Nagar,
DDA/LIG Karol Bagh,
New Delhi.
4. Smt. Sudarshan Gulati
W/o Shri J.R. Gulati,
R/o D-11/188, Kishwai Nagar West,
New Delhi.
5. Shri Satish Chander Mehta
S/o Late Shri A.D. Mehta,
R/o M-23, Kashturba Apartment,
Pitampura,
New Delhi.
6. Shri Brij Lal Sachdev
s/o Late Shri Gurdittamal
R/o B-6/194, Sector-3,
Rohini, Delhi.
7. Shri Nutan Das Arora
S/o Late Shri L.R. Arora,
R/o VI/I/78, Aram Colony,
Lajpat Nagar,
New Delhi.

8. Shri Tahail Ram Sachdev
s/o Late Shri H.D. Sachdev
R/o Qtr. No.Z-2551, St. No.8,
Ragharpura No.2,
Delhi.
9. Shri Kawal Krishan
Shri Late Hans Raj
R/o Qtr. No.274, Sector 5,
R.K. Puram,
New Delhi.
10. Shri Balbir Singh
S/o Late Shri Chhatar Singh,
R/o Qtr. No.45,
Begumpur, P.O. Malvia Nagar,
New Delhi.
11. Shri Rajender Kumar Jain
S/o Late Shri Chhabil Das Jain
R/o RX-B/48/1
Raghu Nagar,
New Delhi.Applicants.

(By Advocates : Shri P.P. Khurana Senior Advocate
with Ms.Seema Pandey)

Versus

1. Union of India
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. JS (Trg.) & CAO
Ministry of Defence,
C-II, Huntments,
New Delhi.Respondents.

(By Advocate : Ms. P.K. Gupta)

O.A. No.581 of 2004

1. P.K. Kulshreshtha
S/o Dr. S.C. Kulshreshtha
R/o 15/633, Vasundhra,
Ghaziabad.
2. Zal Singh
S/o Late Shri Sher Singh
R/o Village & PO Janti Kalan,
Sonipat Haryana.

3. Jagpal Singh,
S/o Shri Gurbax Singh,
R/o H-95, Sarjini Nagar,
New Delhi.
4. Ms. Rajamal
W/o Shri Sharda Peetham,
R/o Shanti Kutir, IIInd Floor,
Middle Flat,
Cringeri.
5. Gurdeep Singh
S/o Lt. Shri B. Singh,
R/o flat No. A5B/68B
Janakpuri,
New Delhi.
6. S.N. Keamra
S/o Late Shri H. Gobind
358, Chattarpur, Phari,
New Delhi.
7. Shri Ghan Shyam
s/o late Shri P. Ram,
R/o 44-B, LIG Flat, Parshad Nagar,
Karol Bagh,
New Delhi.Applicants.

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(By Advocate : Ms. P.K. Gupta)

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1. Shri Madan Mohan
S/o Shri Bachi Ram,
R/o D-453, Kidwai Nagar,
New Delhi.

2. Shri R.S. Rathore
S/o Shri D.R. Rathore
R/o S-78, Sunder Block,
3. Shri jawahar Singh
S/o Late Shri K. Singh
R/o Sector 4/17 0G (DIZ Area)
Gole Market, New Delhi
4. Shri Rakesh Kumar
S/o late Shri O.P. Bhardwaj,
R/o 142, Shakti Vihar, Delhi.
5. Shri Devender Kumar (I)
S/o Shri Sunder Lal
R/o 219, Hari Nagar, Ashram,
New Delhi.
6. Smt. Tripta Soni
W/o Shri Anil Soni
R/o 68-A, Pocket-A,
Mayur Vihar Ph-2,
Delhi.
7. Shri Sunil Dawar
s/o Late Shri K.D. Dawar
R/o A-205, Kidwai Nagar,
New Delhi.
8. Smt. Usha Rana
W/o Shri V.S. Rana,
R/o G-329, Srinivas Puri,
New Delhi.
9. Smt. Parvinder Gulati,
W/o Shri Pramod Kumar
R/o 2A/56, Ramesh Nagar,
New Delhi.
10. Shri Devender Kumar (II)
S/o Shri R.B. Singh,
R/o 8, Church Road,
Jung Pura, Bhogal,
New Delhi.
11. Shri Satyender Kumar Maurya,
s/o Shri G.P. Maurya,
r/o H.No.58, Narshi Puram
Mathura, U.P.

12. Shri M.C. Sharma
S/o Shri K.L. Sharma,
R/o C-11/40, Sector -5,
Rohini, Delhi.
13. Smt. Hemlata Radhwani
W/o Shri N. Radhwani
C-II/F21, Lodhi Colony,
New Delhi.
14. Smt. Promila Bhatti
W/o shri Sudhir Bhatti
R/o Plot No.10 Dewat Colony,
Khera Dewat Road, Gurgaon.
15. Smt. Kamlesh Kandpal
W/o Shri K.K. Kandpal
R/o Sector 1/648, R.K. Puram,
New Delhi.
16. Shri Rajender Kumar
S/o Shri Rattan Singh,
R/o A/31, Raj Nagar Part-II,
Palam Colony, Delhi.
17. Shri N.C. Kaushik
S/o late Shri Chander Pal
R/o 178/4, Gali No.2,
Padam Nagar, Kishanganj,
Delhi.
18. Shri Shashi Bhushan
W/o Shri V.P. Sharma
R/o F-2989, Netaji Nagar,
New Delhi.
19. Shri Sohan Singh Rawat
S/o late Shri B.S. Rawat
R/o C-4C/384, Janakpuri,
New Delhi.
20. Shri D.S. Rautela
s/o late Shri M.S. Mautela
r/o Sector-9, Qtr.-610,
R.K. Puram, New Delhi.
21. Shri Pushp Kumar
S/o Shri Mansa Ram,
R/o H.No.406, Rampura,
Pilkhuwa, Ghaziabad, UP.

22. Shri Mukesh Kumar
S/o late Shri Badri Prasad
R/o H.No.363, Ram Nagar Extn.
Shahdara, Delhi.
23. Shri Rameshwar Dass
s/o late Shri Hukam Chand
R/o LIG 94, Hastal
Uttam Nagar, Delhi.
24. Smt. Neeru Jain
W/o Shri Rajiv Jain,
R/o Sector 7/50, R.K. Puram,
New Delhi.
25. Smt. Bimla Rani
W/o Shri Om Prakash,
R/o 62/4, Kavita Colony,
Karari Road, Nagloi,
Delhi.
26. Smt. Neelam Taneja,
W/o Shri R.K. Taneja,
R/o Sector 5/1510,
R.K. Puram, New Delhi.
27. Smt. Asha Sachdeva
W/o Shri Pardeep Sachdeva
R/o Sector-5/1043, R.K. Puram,
New Delhi.
28. Shri Kamal Kishore
S/o late Shri R.P. Gupta.
R/o WZ-104, naraina,
New Delhi.
29. Shri V.S. Yadav
S/o Shri S.D. Yadav,
R/o RZG-527, Raj Nagar Part II,
Palam Colony, New Delhi.
30. Shri Nagender Adlakha
S/o Shri G.C. Adlakha,
R/o 18/24/12, Old Gobindpura,
Krishna Nagar, Delhi.
31. Shri H.S. Bisht,
S/o Shri M.S. Bisht,
R/o D-479, Kidwai Nagar,
New Delhi.

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32. Shri R.K. Kapil
S/o Shri Dhani Ram,
R/o 73, Pocket-III, Sector III,
Rohini, Delhi.
33. Shri J.S. Ahalawat,
S/o Shri S.S. Ahalawat,
R/o C-4/170A, Keshav Puram,
Delhi.
34. Shri Sanjay Talwar
S/o Shri K.L. Talwar
R/o C/87-B, DDA Flats, Shalimar Bagh,
New Delhi.
35. Smt. Savitri Nayal
W/o Shri Y.S. Nayal,
R/o Sector II, Type-II,
829, Sadiq Nagar, N.Delhi.
36. Smt. Tajender Kaur
w/o Shri Parveen Kumar
R/o 27/2, North West Moti Bagh,
New Delhi.
37. Smt. Sushma Gupta
w/o Shri Anil Kumar
R/o Pocket R/66A, Dilshad Garden,
Delhi.
38. Smt. Sujata Oberoi,
W/o Shri Rajesh Oberoi,
R/o A-201, Ishwar Appt.,
Plot No.4, Dwarka, Delhi.
39. Smt. Vinita Sablok
W/o Shri Harish Sablok
R/o GH-1/276, Archana Appt.,
Paschim Vihar,
New Delhi.
40. Shri Ishwar Singh
s/o late Shri Mehtab Singh,
R/o H.No.C-1/52, Budh Bihar,
New Delhi.
41. Shri Ram Karan Meena
S/o Shri R.P. Meena
R/o C-1/94, Phase-IV,
Aya Nagar, Extn.,
New Delhi.

42. Shri Pawan Kumar
S/o Shri D.B. Singh
R/o L-534, Sanjay Ngar,
Sector-23, Ghaziabad, UP.
43. Shri Dharam Vir Singh
S/o Shri Hari Ram,
R/o 344/15, 7 Bishwa Jatwara,
Bhadurgarh, Haryana.
44. Shri Harish Chand
S/o Shri Phool Singh,
R/o Shakti Nagar,
Meerut Road, Hapur
Ghaziabad, UP.
45. Shri Kishore Nandanwar
S/o Shri Tulsi Ram,
R/o 6049/6, D-6, Vasant Vihar,
New Delhi.
46. Shri A.K. Tiwari,
s/o Shri S.S. Tiwari,
R/o 2B-173, Vasundhar,
Ghaziabad, UP.
47. Shri Sanjay
S/o Shri C.L. Verma
R/o A-5/T-1, Dilshad Garden,
Delhi.
48. Shri Krishna Murti
S/o Shri Jagdish Singh,
R/o 981, Sector-7, R.K. Puram,
New Delhi.
49. Shri Jaspal
S/o late Shri Bhagat Ram,
R/o C-1/98, Rohini,
Sector-V, New Delhi.
50. Smt. Sarla Devi
W/o Shri Nand Lal,
R/o 1/3966, Bhagwanpur,
Khera, Loni Road Shahdara,
Delhi.
51. Shri Brij Mohan Badoni,
s/o late Shri M.R. Badoni,
R/o C-137, Kidwai Nagar,
New Delhi.

52. Smt. Naishrity Mathur
W/o Shri R.K. Mathur,
R/o J-2, Palika Niketan,
Sector X, R.K. Puram,
New Delhi.

53. Shri Vivek Tyagi
s/o Shri P.P. Tyagi,
R/o Sector-8/77, R.K. Puram,
New Delhi.

54. Shri Sant Kumar Prasad
S/o Shri P.N. Singh,
R/o C-118, Taj Enclave,
Qutab Vihar, Part-II,
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Versus

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(By Advocate : Ms. P.K. Gupta)

ORDER (ORAL)

HON'BLE SHRI SHANKER RAJU, MEMBER (J) :

Being grounded on same sets of facts involving identical question of law, these OAs are being disposed of by this common order.

OA 580 of 2004

In 1986, Sheshagiri Committee was set up to recommend details for rationalization of the pay scales of Electronic Data Processing posts (hereinafter referred to as

"EDP"). Recommendation was made on 11.9.1989 and vide Ministry of Defence letter dated 12.1.1990, revision in pay scale was given effect from 11.9.1989. This has been promulgated in Defence vide letters dated 8.1.1991 and 6.12.1994. The post of Data Entry Operator was abolished and allocated to DEO 'B' and DEO 'C' with the stipulation that no further recruitment to DEO 'A' w.e.f. 1.1.1996. Aggrieved by the decision to grant benefit of 11.9.1989, OA 351/1999 was filed before the Tribunal and the same was allowed on 16.2.2000. Against which Review Petition preferred was also rejected on 18.1.2001. The directions given in the aforesaid OA were complied with granting the revision of pay scales w.e.f. 1.1.1986. The applicants when sought extension of the benefit of the above directions the claim was rejected vide order 30.7.2003 on the ground that the benefit of Tribunal's directions is restricted to the applicants therein only.

OA 581 of 2004

The brief background is the same. Applicants were working on different EDP posts and their representation was rejected for extension of benefit on the ground that they are not parties vide order dated 30.7.2003.

OA 582 of 2004

Similar representation ibid was turned down on 30.7.2004.

2. Learned senior counsel Shri P.P. Khurana with Ms. Seema Pandey, learned counsel for the applicants contended that decision of the Tribunal having been affirmed by the Hon'ble High Court of Delhi, the applicants being similarly situated cannot be denied the benefit of the same.

3. On the other hand, in OA No.580/2004, learned counsel of the respondents Ms. P.K. Gupta opposed the contention raised by the applicants but has not given any justifiable grounds to take a different decision in case of the applicants, who are similarly situated. Accordingly in OA 581/2004, on an additional ground, it is contended that the applicants are not similarly situated, as they do not fulfill the criteria under the Recruitment Rules. Similar plea of the respondents has been taken in OA No.582/2004 wherein it is contended that the applicants had not placed in DEO 'B' with effect from the date they have joined as DEO-I but they have been placed on completion of 12 years of regular service, as such they were not eligible.

4. We have carefully considered the rival contentions of the parties and perused the material placed on record.

5. In the light of the decision of the Constitutional Bench of the Apex Court in the case of **K.C. Sharma and others Vs. Union of India and others**, JT 1997 (7) SC 58 wherein it has been held that when one is similarly situated and the judgment has an effect *in rem* depriving of extension of benefit of the directions and dragging the individual person to go to

Court would be waste of exchequer and would not be justifiable. In this backdrop, the only ground to reject the contention in all these cases that they are not parties in the earlier decision, as such the benefit of the judgment is restricted to the applicants therein only cannot be countenanced. The respondents plea of ineligibility taken now in the counter reply is against the decision of the Constitutional Bench of the Apex Court in the case of ***Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others***, 1978 (1) SCC 405.

The aforesaid contention of non-eligibility under the rules is an additional ground in the reply, which has not been incorporated in the order, cannot supplement. Moreover, the ground that the applicants are not covered and there cases are distinguishable is not a valid ground to reject their claim.

6. Basically, the decision of the Tribunal in OA 351/1999 (supra) has been affirmed by the Hon'ble High Court of Delhi vide judgement and order dated 18.1.2001 in C.W. No.7100/2000 where the benefit of letter dated 1.9.1989 has been antedated from 1.1.1986. Accordingly, the applicants who were in position and were eligible under the rules would not be deprived of the benefits of the decision in OA 351/1999 as the said judgment was *in rem* and applicants being similarly situated cannot be deprived of the benefits of the said judgment.

7. We also find that similarly situated DEOs had also been granted the benefits consequent to implementation and denying the same to the applicants is an invidious discrimination and is not based on intelligible differentia and has also no reasonable nexus to the object sought to be achieved. Differential treatment to the persons forming one class is an antithesis to Article 14 of the Constitution of India and such a discrimination is violative of which renders the impugned orders passed by the respondents nullity in law, in the light of the decision of the Constitutional Bench of the Apex Court in the case of **D.S. Nakara and others Vs. Union of India**, 1983 SC (L&S) 145.

8. In the result, for the foregoing reasons, OAs are allowed. Impugned orders are quashed and set aside. Respondents are directed to accord the benefit of pay scale to the applicants w.e.f. 1.1.1986 and in that event, they shall be entitled to all the arrears and consequential benefits. The same shall be paid to them within two months from the date of receipt of a copy of this order. No Costs.

9. Let copies of this order be placed in all OAs.

11. — 1 —
 (Shanker Raju)
 Member (J)

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— 1 —
 (V.K. Majotra)
 Vice Chairman (A)

31.1.85