

(24)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 867/2004
This the 25th day of November 2004

HON'BLE SH. SHANKER RAJU, MEMBER (J)
HON'BLE SH. SARWESHWAR JHA, MEMBER (A)

1. 373314 Anand Kumar, working as Elect (S/C)
GE (P) West Delhi Cantt-10.
2. 373315 Chetan Prakash, working as Elect (S/C)
GE (P) West Delhi Cantt-10.
3. 373316 Chander Bhan, working as Carpenter (S/C)
GE (P) West Delhi Cantt-10.
4. 374299 Vinod Prakash, working as Veh. Mech. (S/C)
GE (P) West Delhi Cantt-10.
5. 373311 Ombir Singh, working as H.S. Elect (S/C)
GE (P) West Delhi Cantt-10.
6. 373712 Sukhbir Singh, working as H.S. Elect (S/C)
GE (P) West Delhi Cantt-10.
7. 373713 Idrsh Mohd., working as H.S. Elect (S/C)
GE (P) West Delhi Cantt-10.

Applicants No.1 to 4 are working as skilled workers in MES under Respondents No.3 and applicants No.5 to 7 are working as Skilled Workers in MES under respondents No.4.

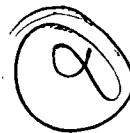
Versus

1. Union of India through the Secretary,
Ministry of Defence, South Block,
Govt. of India, New Delhi.
2. The Engineer-in-Chief, (Delhi Zone),
Army Head Quarters, E-in-C Branch,
Kashmir House, Ministry of Defence, Delhi.
3. The Garrison Engineer (P),
MES, Ministry of Defence,
Delhi Cantt.-10.
4. The Garrison Engineer (South),
MES, Ministry of Defence,
Delhi Cantt.-10.

ORDER (ORAL)

By Hon'ble Sh. Shanker Raju, Member (J)

Heard the counsel.



2. In the light of the similar treatment meted out to the similarly circumstanced in OA-3133/2001 Mahesh Chander & Ors. Vs. Union of India & Ors., applicants have been deprived of the benefit on the ground that a writ petition against one order passed by the Chandigarh Bench is pending before the Hon'ble High Court of Punjab and Haryana. On this ground taken by the respondents, applicants seeks fixation of pay scales in the wake of anomalies Committee constituted aftermath of recommendations of 3rd Pay Commission by an order passed in OA-1436/1990 decided on 5.2.93 in Man Singh vs. Union of India & Ors. Wherein skilled category have been accorded pay scales which had been implemented by the respondents.

3. Furthermore in OA-1657/2000 decided on 27.3.2001 as well as in OA-3133/2001 decided on 19.11.2001 after the directions they extend the benefits and pay scales have been accorded to similarly circumstanced. Applicants made their representations but the same has been denied without any reason. Now counsel for respondents contended that in a similar case decided by the Chandigarh Bench, a writ petition filed bearing No.15702-CAT of 2003, operation of the order passed by the Tribunal in OA-1247/CH/2002 had been stayed.

4. We have considered the rival contentions of the parties. In the light of Constitution Bench decision of the Apex Court in K.C.Sharma vs. Union of India 1998 (1) SC SLJ 54 wherein it is ruled that similarly circumstanced cannot be deprived of the benefit of judgment if are identically situated. Reliance is also made on a Full Bench decision of this Tribunal in Ganga Ram and others vs. Union of India FBJ Vol.2 Bahri Bros. 441 as well as Full Bench decision of the Tribunal in R.Srirangaiah vs. Union of India 1997-2001 AT FBJ 207 wherein it has been held that even after stay of decision of the Tribunal by the High Court, the same would be binding and does not cease the order of the Tribunal to be treated as precedent unless the decision is overturned by the higher forum, we can rely upon the same.

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5. We also find that various decisions of this Tribunal as referred to above decided by Principal as well as other coordinate benches, respondents have already complied with the orders. There is no justification for withholding the benefits to the applicant who are identically situated.

6. In the result, OA is partly allowed. Impugned order is set aside. Respondents are directed to accord the benefits to the applicants by extending the benefit of the OAs referred to above within three months from the date of receipt of the copy of this order. However, this shall be subject to the final outcome of the pending writ petition before the High Court of Punjab and Haryana and in the event of final decision, law shall take its own course.


(SARWESHWAR JHA)

Member (A)


(SHANKER RAJU)

Member (J)

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