

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2841/92

New Delhi, this the 5th day of Jan., 1998

(8)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S. P. Biswas, Member (A)

1. The Defence Marine Tech. Staff Welfare Association, represented by V.B. Pendam, General Secretary, WZ/45, D, Possangipur Market, Janakpuri, New Delhi.
2. V.M. Upendran, Senior Technical Assistant, DQA (WP), H. Block, New Delhi.Applicants

(By Advocate: Shri K.B.S. Rajan with Ms Pushpa Rajan)

Versus

Union of India through

1. Secretary, Ministry of Defence, New Delhi.
2. Secretary, Department of Defence Production South Block, New Delhi.
3. The Director General of Quality Assurance, South Block (Min. of Defence) New Delhi.
4. The Director, Directorate of Quality Assurance(Naval) West Block No. 5, R.K. Puram, New Delhi.Respondents

(By Advocate: Shri P.H. Ramchandani)

O R D E R (ORAL)
By Dr. Jose P. Verghese, Vice-Chairman (J)-

Petitioner in this OA is an Association known as Defence Marine Technical Staff Welfare Association and seeking revision of the pay scale of Senior Technical Assistants with a view to bring the same at par with the pay scale of Senior Scientific Assistants of Directorate General of Quality Assurance. A demand for the said purpose was raised before the J.C.M. and in the JCM

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meeting it was decided that the authorities concerned in the Ministry of Defence and the concerned attached offices may consider the demand and pass appropriate orders. Since no result of this dispute was forthcoming, this OA was filed in the year 1992 seeking the above said relief.

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In the meantime the Fifth Pay Commission considered the issue which is the subject matter of this OA and seems to have substantially agreed to the pay revision as sought and the petitioners submit that the recommendations of the Fifth Pay Commission have been accepted and the same are being implemented with effect from 1.1.1996. In the circumstances the main relief stands satisfied.

¶62.264 It has been represented that Senior Technical Assistants, like Foreman, SSA and Chief D'Man, are a feeder grade to JSO but, because of their exclusion from the Arbitration Award which granted some percentage of SSAs and Chief Draughtsman the higher scale of Rs. 2375-3500, they were not granted the higher scale. In terms of recruitment qualifications and nature of duties and responsibilities, they compare with foreman, SSA and Chief D'Man and the higher scale should also be provided to them. We have considered the demand and in line with our recommendations for the Group 'B' and 'C' Scientific, technical and design staff in DRDO, DGQA and DTD&P (Air) and keeping in view the recruitment qualifications of Technical Assistants and STAs. we recommend the following revised structure for STAs and TAs in the DGQA Organisation:

Existing	Proposed	Remarks
	STA 1 (Rs.2375-3750)	41% of STAs may be placed in this grade
STA (Rs.1640-2900)	STA II (Rs.2000-3500)	59% of STAs may be placed in this grade
	TA-I (Rs.1640-2900)	50% of TAs may be placed in this grade
TA (Rs.1400-2300)	TA-II (Rs.1640-2660)	50% of TAs to be placed in this scale

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The only relief now to be considered is whether the said recommendation can be implemented w.e.f. 1.1.1988 as well since according to the petitioners, the issue of parity of pay scale has now been considered by the 5th Pay Commission. It was given to understand by the counsel for the respondents that by no means the recommendations of the 5th Pay Commission could be implemented w.e.f. 1.1.1986 since it has been uniformly recommended for implementation under the said recommendation w.e.f. 1.1.1996 only. It was also stated by the counsel for the respondents that what is considered is only the question of parity and aspect of discrimination or the difference in the qualification at the entry point etc. has not been considered even though those issues have been raised by the petitioner in the OA. It was also stated by the counsel for the petitioners that these issues needs to be decided whether the denial of the pay scales now admittedly recommended by the 5th Pay Commission should have been granted even by the 4th Pay Commission or not and whether the non-payment of such revised pay scales amount to hostile discrimination against the petitioners or not. Before considering this issue by this court, whether hostile discrimination exists which, in our view, is a necessary finding without which we could not pass any order with respect to further retrospectivity to the order of the recommendation of the 5th Pay Commission. We would like the respondents to arrive at a final decision as to the manner and the logic in which the pay revision has been recommended w.e.f. 1.1.1988 by the 5th Pay Commission, and whether the same can also be applied w.e.f. 1.1.1988 or not. This shall be, in the first instance, decided by the respondents on their own, and thereafter only we would like to decide the matter whether the hostile discrimination

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exists and whether the relief of arrears of pay etc. with effect from 1.1.1988 can be granted to the petitioners or not. We are of the firm view that in case the respondents consider on their own that on the basis of reasoning arrived at by the 5th Pay Commission the arrears of pay are also available to the petitioners, they may grant the same, after due consideration by appropriate authorities within four months from the date of the receipt of the copy of this order, and thereafter, if any adverse order is passed, petitioners are given liberty to move a representation in case they are still aggrieved and thereafter petitioners will be at liberty to revive this OA for the purpose of deciding the question of hostile discrimination by filing an MA for the same purpose.

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With this, this OA is disposed of with no order as to costs.


(S.P. Biswas).
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J)

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