

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

THIS THE 2 DAY OF December 2011

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)
HON'BLE MR. SHASHI PRAKASH, MEMBER (A)**

ORIGINAL APPLICATION NO. 1210 OF 2004
(U/S 19, Administrative Tribunal Act, 1985)

1. Dr. Sunder Singh son of Late Bhanwar Singh resident of 168, Sector 9, Sikandara Avas Vikas Yojana, Agra.
2. Dr. Kayam Singh Shosodiya son of Late Ram Singh, resident of 14/149, Swarikapuri, Aligarh.
3. Dr. Ram Veer Singh Gautam son of Sri Gautam, resident of Nai Awadi Jaunpur.

.....**Applicants**
V E R S U S

1. Union of India through Secretary Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. The Department of Agriculture and Co-operative, Ministry of Agriculture, Government of India, Directorate of Economics and Statistics, New Delhi, through its Economic & Statistical Advisor.
3. That Additional Economic Advisor, Directorate of Economic and Statistics (Cost Study Branch), Shastri Bhawan, New Delhi.
4. The Principal Raja Balwant Singh College, Raja Balwant Singh Road, Agra.

.....**Respondents**

Present for the Applicant: Sri Naveen Srivastava

Present for the Respondents: Sri R. C. Shukla

O R D E R

Instant O.A. has been instituted for following
reliefs:-

"(a). issue directions to the respondent No.4, the Principal, R.D.S. College, Bichpur, Agra, U.P. to make payment at the rate of Rs.3700-5700/- to the applicants as directed vide

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letter dated 6.3.1995 passed by the respondent no.1 and 3 and communicated by the respondent no.3 to the respondent no.4 in case of Shri A.K. Jain.

(b). to quash order dated 5.10.1996 (passed by respondent no.4 to the effect that scale of Assistant Statistician 3000-4500 (revised) not applicable to the case of the applicant. As his representation was decided by the respondent no.1 and 2 in which direction was issued to make payment at the rate of 3700-5700/- to the petitioner.

(c). issue any other suitable directions which this Hon'ble Tribunal deems fit and proper in circumstances of the case.

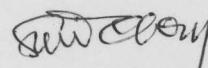
(d) to direct the respondent no.4 to make payment of the scale at the rate of Rs.3700-5700/- during the pendency of this petition."

2. The pleadings of the parties may be summarized as follows:-

It has been alleged by the applicants that they have been appointed on different dates on the post of Field Supervisor in the Respondents' Organization in between 16th September, 1978 to 22nd October, 1983 and the vacancy was advertised in the local newspaper for the post of Field Supervisor and after



completion of 5 years of their services, they were given senior pay scale of Rs.3000-5000/- w.e.f. 01st November, 1988 by the respondent no.4. Earlier in the normal procedure the revised pay scale of Rs.2200-4000/- was being paid to them and after completion of 13 years of their services the pay scale of Rs.3700-5700 (12000-18000 revised) was due from 01st November, 1996, but without assigning any reason respondent No.4 changed the existing grade of pay scale Rs.2200-4000/- the non-teaching pay scale on the pretest that the Ministry of Agriculture has directed him to do so. There is a clear order which provide that henceforth only the post of Field Officer shall be treated to be teaching cadre and the rest of the posts shall be treated as non-teaching cadre. The Field Supervisor and Assistant Statistician have been put in the same grade with scale of Rs.3000-4500/-. The grievance of the applicants are that they were appointed as Field Supervisors and their pay scale should be Rs.3700-5700 (12000-18000 Revised), but the respondent No.4 through whom the comprehensive cost of cultivation scheme is being implemented is not paying salary for which the applicants are entitled. That one Sri A. K. Jain has been allowed the salary vide Ministry of Agriculture letter dated 06th March, 1995 regarding



fixation of salary. A representation was made by Sri A. K. Jain for restoration of the scale and the pay of Sri A. K. Jain was restored at Rs.4575/- as on 01st April, 1993 in the scale of Rs.3700-5700/- and it was alleged that this scale is purely personal to Sri A. K. Jain and will not set ~~an~~ ¹² precedent for any members of the staff of RBS College, Agra or any other implementing Agency of the cost of the Cultivation Scheme. That the order passed by respondents on 06th March, 1995 is itself illegal and discriminatory because it has been passed only in response to Sri A. K. Jain, but the applicant are also the similarly situated persons hence they are also entitled for the same pay scale. The category of Assistant Statistician and Field Supervisors are equivalent, but considering the case of Sri A.K. Jain as genuine and bona-fide and allowed him the pay scale of Rs.3700-5700/- whereas, both the posts are equal and both are entitled for the equal pay. But the respondent No.4 has denied to restore the pay scale having parity with Sri A.K. Jain, but the respondents turned down the request of the applicants hence O.A. No. 509 of 1997 was filed and it was decided on 06th March, 1995 and the Tribunal directed the respondent No.4 to pay salary in the pay scale of Rs.3700-5700/- as per order

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dated 06th March, 1995, however, the pay of the applicants were revised, but subsequently it was denied. That the Director of the scheme issued comparative statement showing the pay scales and allowances of the staff of the different categories at Pant Nagar and at RBS College, Agra which also proves that the post of Assistant Statistician and Field Supervisor are equal having the same pay scale, Annexure-9 is the copy of the statement filed by the Director. That the respondents denied the benefits to the applicants, hence the O.A..

3. Respondents contested the case and filed Counter Reply and denied from the allegations made in the O.A.. It has been alleged by the respondent No.4 in the Counter Affidavit that Balwant Educational Society (hereinafter referred to as the Society) is a registered society registered under the Societies registration Act, 1860 which runs the Raja Balwant Singh College, Agra affiliated to Dr. Bhim Rao Ambedkar University, Agra and is governed by the U.P. State Universities Act, 1973. That this College is neither owned nor controlled by the Govt. of India and no notification was issued under section 14(2) of the Administrative Tribunal Act in order to bring this institution within the

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jurisdiction of the C.A.T.. The applicants are not the employees of the college as they have not been appointed under the provisions of the U.P. State Universities Act, 1973, but are engaged in a scheme called as the Comprehensive Cost of Cultivation Scheme of Studying of Principal Crops (hereinafter referred to as Scheme). In the year 1973, the Scheme was transferred from G.B. Pant University of Agriculture and Technology, Pant Nagar to the College vide letter dated 09th May, 1973 of the Under Secretary to the Govt. of India, Ministry of Agriculture, Department of Agriculture, Annexure-CA-1 is the copy of the letter). That the total expenditure to be incurred in the scheme will be borne by the Govt. of India, Ministry of Agriculture, Department of Agriculture by way of Grant-in-Aid and the college has no role to play in formulating the terms and conditions governing the staff under the scheme. The applicants who are working under the Scheme cannot be paid by the College from its own resources or by the State of U.P., and the salary is paid from the funds received by way of Grant-in-Aid from the Govt. of India. The applicants under the Scheme will be terminated or if the Scheme is transferred from the College to some other institution, the staff under the scheme may

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either be transferred or their services may be terminated, but they will not be retained in the College in any event. And this Tribunal has got no jurisdiction to entertain and adjudicate the matter. The applicant challenged the order passed by the College on 05th October, 1996 now which is not permissible. That the pay scale of Rs.3700-5700/- was never sanctioned or approved by the respondent No.2. Letter dated 29th July, 1993 of the Additional Economic Advisor, Govt. of India directing therein that Field Supervisors be given the pay scale of Rs.1740-3000/- and not the pay scale of Rs.2200-4000/-. It has further been alleged that Field Supervisor who have already been given a senior scale be given the pay scale of Rs.2200-4000 in their personal capacity. Therefore, the applicants cannot be given the pay scale of Rs.3700-5700/-. The post of Assistant Statistician cannot be equated with Field Supervisor, it has got entirely different nature of work. That the case of Sri A. K. Jain is entirely different from that of the applicants and under the peculiar facts and circumstances, the Govt. of India had sanctioned the pay scale of Rs.3700-5700/- to Sri A. K. Jain and as such, this was in his personal capacity, and is not

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applicable in any other case. That the O.A. lack merits and liable to be dismissed.

4. Respondent Nos. 01 to 03 filed separate Counter Affidavit and denied from the allegations of the O.A.. It has further been alleged that the O.A. is not maintainable and this contention of the applicant cannot be accepted that the scale of Rs.3700-5700/- (pre-revised) be paid to them also is illegal and not tenable. Initially the pay scales of the Field Supervisors and Assistants Statistician were equivalent, the pay scales of Assistant Statistician was revised upward after taking into account higher responsibilities and work load involved in his job. On the other hand, the Field Supervisors' job is limited to supervise only 10 sample clusters in the state. The Ministry of Agriculture is of the considered view that job of an Assistant Statistician involves higher responsibilities, hence there is no justification to grant the similar pay to the applicants. The Field Supervisors are non-teaching and non-research staff and would not be eligible for personal promotion on U.G.C. pattern. The Ministry has agreed to the scale of Rs.1740-3000/- (revised to Rs.5500-9000). One Field Supervisor are not considered eligible for promotion on U.G.C. pattern, the question of

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granting scale on U.G.C. pattern does not arise. That the case of Sri A. K. Jain is not comparable with that of the applicants as the duties and responsibilities attached with the post of Assistant Statistician held by Sri A.K. Jain (now retired) is not comparable with those of the applicants. That the O.A. lack merits and liable to be dismissed.

5. In response to the Counter Affidavits of the respondents applicant filed the Rejoinder Affidavit and denied from the allegations made in the Counter Affidavits and reiterated the facts which have been alleged in the O.A. Moreover, Supplementary Counter Affidavit has also been filed on behalf of the respondents which shall be discussed at the appropriate place.

6. We have heard Sri Naveen Srivastava, Advocate for the applicant and R. C. Shukla, Advocate for the respondents and perused the entire facts of the case.

7. From perusal of the pleadings of the parties it is evident that most of the facts have been admitted by the parties. It is an admitted fact that in the present O.A. the applicants were appointed on the post of field Supervisor in the Respondents'

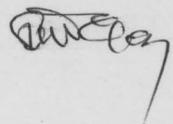
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Organization. The posts were advertised in the newspaper and, thereafter, on fulfillment of formalities these applicants were appointed on different dates. It is also an admitted fact that these applicants worked on the post of Field Supervisor and after completion of 5 years of their services, they were given senior pay scale of Rs.3000-5000/- w.e.f.01st November, 1988. It has also been alleged by the applicant that in normal procedure the revised pay scale of Rs.2200-4000/- was being paid to them and after completion of 13 years of their services the pay scale of Rs.3700-5700/- (12000-18000 revised) was due from 01st November, 1996. The applicants alleged that they are also entitled to get the pay scale of Rs.3700-5700 (12000-18000 revised) which was due w.e.f.01st November, 1996 when they completed 13 years of services, but without assigning any reason the respondent No.4 changed the existing grade of pay scale Rs.2200-4000/- the non-teaching pay scale on the pretest that the Ministry of Agriculture has directed him to do so. There is a clear order issued by the respondents which provides that the post of Field Officer shall be treated as teaching cadre and the rest of the post, shall be non-teaching cadre. It was also alleged ~~that~~ by the

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applicants that Field Supervisor and Assistant Statistician have been put in the same grade with pay scale of Rs.3000-4500/-. Now the grievance of the applicants is that they are entitled to the pay scale of Rs.3700-5700/- (pre-revised) and the respondents distinguished the case of Sri A. K. Jain working as Assistant Statistician. Earlier the pay scale of Assistant Statistician and Field Supervisor was same, but later on it has been distinguished and it has been ordered regarding the case of the Sri A. K. Jain that it is personal pay and it will not set as precedent for any members of the staff of R.B.S. College, Agra. It has been alleged by the applicant that the respondents cannot distinguish the pay of Assistant Statistician and Field Supervisor.

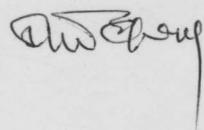
8. Respondent No.4 is the Principal of Raja Balwant Singh College, Raja Balwant Singh, Road, Agra and Respondent Nos. 01 to 03 are the Union of India and the respondent No.01 to 03 had filed separate Counter Reply. Respondent No.4 in the Counter Affidavit alleged that this Tribunal has got no jurisdiction regarding the R.B.C. College as the Balwant Educational Society is a society registered under the Societies Registration Act and it has been affiliated to Dr.



Bheem Rao Ambedkar University. That this college is neither owned nor controlled by the Govt. of India and the applicants are not the employees of the college in as much as they have not been appointed under the provisions of the U.P. State Universities Act, 1973, but are engaged in a scheme called as the Comprehensive Cost of Cultivation Scheme of Studying of Principal Crops (hereinafter referred to as Scheme). In the year 1973, the Scheme was transferred from G.B. Pant University of Agriculture and Technology, Pant Nagar to the College vide letter dated 09th May, 1973 of the Under Secretary to the Govt. of India, Ministry of Agriculture, Department of Agriculture, that the total expenditure to be incurred in the scheme will be borne by the Govt. of India, Ministry of Agriculture, Department of Agriculture by way of Grant-in-Aid. Hence the case of the respondent No.4 is that it is a society registered under the society's registration Act and it has not been notified under section 14(2) of the Administration Tribunal Act and hence this Tribunal has got no jurisdiction to entertain and adjudicate the matter and it has been admitted that the applicants are not the employees of the Respondent No.4 rather they are the employees of the Respondent Nos.01 to 03. It

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has also been admitted that the total expenditure to be incurred in the scheme will be borne by the Govt. of India, hence respondent No.4 is the formal party and respondent Nos. 01 to 03 are the ~~most~~ ⁸ contesting parties. Respondent Nos. 01 to 03 have not been denied from the jurisdiction of the Tribunal rather they have admitted that the applicant are the employees of the respondents, but it has been alleged ^{by} respondent Nos. 01 to 03 that the applicants are not entitled to the pay scale of Rs.3700-5700/- (pre-revised). That still the pay scale of the Field Supervisor and Assistant Statistician are equivalent, but later on the pay scale of Assistant Statistician was revised upward after taking into account higher responsibilities and work load involved in his job. As the job of Field Supervisor is limited to supervise only 10 sample clusters in the state and considering the fact that the post of Assistant Statistician carries higher responsibilities and duties and hence it was distinguished from the Field Supervisor and accordingly the scale was provided to Assistant Statistician of Rs.3700-5700/- and it has also been alleged that the applicants are not entitled to this scale. As we have stated above that earlier the pay scale of the post of Field Supervisor, Assistant



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Statistician was equal, but later on it ~~were~~ ^{was} distinguished, Annexure-1 is the copy of the impugned letter issued by the respondent No.4/College according to this letter dated 05th October, 1996 except the post of Field Supervisor rest of the posts were put in the category of non-teaching staff. The Field Supervisor in the pay scale of Rs.3700-5700/- were put in non-teaching ^{earlier} staff cadre whereas, The Field Supervisor and Assistant Statistician were put in the scale of Rs.2200-4000/- later on revised to Rs.3000-4500/-.

Annexure-9 is a letter issued by the Under Secretary to the Govt. of India, Ministry of Agriculture, Directorate of Econ. & Stat., New Delhi. On 25th September, 1973 and according to this letter the post of Assistant Statistician and Field Supervisors were in the same scale of Rs.300-25-550 whereas, the pay scale at R.B.S. College, Agra is 300-25-600/- and these Assistant Statistician and Field Supervisor are equivalent to Lecturer. According to this letter the post of Assistant Statistician and Field Supervisor ^{were} in the teaching cadre and rest of the post are in non-teaching staff. It is also evident from perusal of this letter that posts of Field Supervisor as well as Assistant Statistician were of the same scale of pay. It has also been

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argued by the learned counsel for the applicant that respondents ordered later on dated 06th March, 1995 in the identical matter of Sri A. K. Jain regarding fixation of pay and it will be material to reproduce the contents of the letter:-

"Please refer to your letter No.2025 dated 31.1.14995 regarding restoration of pay of Sri A. K. Jain in the scale of Rs.3700-5700/-.

In this connection it is to inform that the pay of Sri A.K. Jain was restored at Rs.4575 as on 1.4.1993 in the scale of Rs.3700-5700/- after thoroughly examining his case. This is clarified that his scale is purely personal to Sri A.K. Jain and will not set in precedent for any member of the staff of RBS College, Agra or any other implementing Agency of the cost of the Cultivation Scheme.

As regards, the revision of pay scales of Field Supervisors, this Directorate's D.O. letter of even number dated 29.7.1993 may please be seen which is self explanatory (copy enclosed for ready reference)."

From perusal of the order it is evident that Sri A.K. Jain had been working as Assistant Statistician and earlier the post of Assistant Statistician and Field Supervisor were treated as teaching staff and were in the same scale of pay, but in the matter of A.K. Jain vide this letter

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order was passed by the respondents that the pay of A.K. Jain is restored at 4575 as on 01st April, 1993 in the scale of Rs.3700-5700/-.. It was also ordered that the scale given to A.K. Jain is purely personal to him and will not set in precedent for any member of the staff of RBS College, Agra or any other implementing Agency of the cost of the Cultivation Scheme. Hence the post of Assistant Statistician and Field Supervisor were distinguished and the respondents alleged that duties and responsibilities of both the post ~~are~~ ^{are} entirely different and that the post of Assistant Statistician carries higher responsibilities and duties in comparison to Field Supervisor and thereafter, they ^{were} ~~are~~ put in the category of non-teaching staff and placed in the lower scale of pay and the applicant alleged that it is discriminatory. Moreover, there is a letter of dated 02nd December, 1978 issued by the respondents and it has been provided in this letter "This circular clarifies that that Staff working under teaching, research and extension are interchangeable and all officers working under Training, Teaching and Research are Teachers for all purposes under the University act and statutes." In this provision the post of Field Supervisor and Assistant

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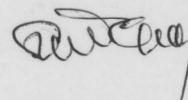
Statistician have also ^{been} ^Q included in the category of
Teaching staff.

9. Annexure-2 of the Rejoinder Affidavit is a letter issued by the respondents on dated 29th July, 1993 and according to this letter "Field Supervisor designation should not be changed to Junior Research Officer as there is no provision for Research Officer in their functional requirement is to supervise the field work of the Field Investigators and does not involve carrying on research studies. Since they are not research staff and hence they should not be equated with Lecturer or other teaching staff of the University. The Ministry has, therefore, agreed to the scale of Rs.1740-3000/- for Field Supervisors. However, in their personal capacity Field Supervisors who have already been given a senior scale, at best they may ^{be} ^Q given a scale of Rs.2200-4000/-. They are to be treated as non-teaching/non-research staff and would not be eligible for personal promotion on UGC pattern. However, they may be governed as per non-teaching rules and regulations. And the designation of the Assistant Statistician should also not be changed to Senior Statistician. The scale of pay for the Assistant Statistician will remain at par with that of the Field Supervisors and the same pattern and

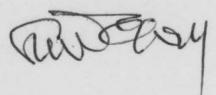
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policy for promotion would be applied to this post."

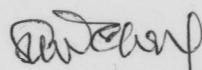
According to this letter also the Assistant Statistician and Field Supervisor were equated, but a different view has been adopted in the case of A. K. Jain, Assistant Statistician. It appears that on 06th March, 1995 the representation of the Sri A.K. Jain was considered regarding restoration of pay in the scale of Rs.3700-5700/- and it was held as stated above that the pay of Sri A. K. Jain was restored at Rs.4575/- as on 01st April, 1993 in the scale of Rs.3700-5700/- and it was alleged that this scale is purely personal to Sri A. K. Jain and will not set in precedent for any members of the staff of RBS College, Agra or any other implementing Agency of the cost of the Cultivation Scheme, and the applicants are claiming parity with Sri A.K. Jain. As we have stated above that earlier it was considered that the pay of the Assistant Statistician and Field Supervisor ^Were at par in the matter of scale of pay, but vide letter dated 06th March, 1995 a different attitude has been adopted by the respondents and it has been stated that the post of Assistant Statistician and Field Supervisor are entirely different and that the scale of pay Rs.3700-5700/- was granted to Sri A.K. Jain only ^{on} ~~of~~ personal basis and it will not be treated as



precedent, in our opinion this was unjustified on the part of the respondents that earlier a stand has been taken that these posts are of equal pay scale hence it is most unjustified to grant different pay to A.K. Jain to that of other Field Supervisor. However, after completion of 13 years of service these applicants are also entitled for the pay scale of Rs.3700-5700/- (pre-revised) and it is applicable to these applicants w.e.f. 01st November, 1996 on completion of 13 years of service. This argument of the learned counsel for the respondents is most unjustified that the post of Assistant Statistician is of higher duties and responsibilities in comparison to the post of Field Supervisor and earlier the respondents themselves stated that these are equal in the matter of pay scale and hence later on it cannot be distinguished and Mr. A.K. Jain has been granted a different pay @ Rs.4575/- as on 01st April, 1993 in the scale of Rs.3700-5700/- and it was alleged that this scale is purely personal to Sri A. K. Jain and will not set as precedent for any members of the staff of RBS College, Agra or any other implementing Agency of the cost of the Cultivation Scheme and it will be discriminatory act on the part of the respondents. There must be some logic in the contents of the respondents, but



nothing has been alleged that as to why and how the case of Mr. A.K. Jain has been distinguished and as to why a different scale of pay has been granted to him. As earlier both the posts were at par hence these applicants after completion of 13 years are also entitled to the scale of 3700-5700/- (pre-revised) and it is wrong to allege that afterwards the post of Field Supervisor was distinguished from Assistant Statistician. As we have stated above that no reasons have been given by the respondents to distinguish these posts and moreover, respondents are not entitled to reduce the pay scale admissible to a post and the earlier stand of the respondents can not be permitted to be changed and these applicants are also entitled for the same treatment as has been given to Sri A.K. Jain, because the case of the Sri A.K. Jain cannot be treated as an isolated or is not comparable to applicants or other persons. The post of Assistant Statistician which Sri A.K. Jain was holding was of the same scale and at par with the pay scale of Field Supervisors, hence the applicants are also entitled for that scale and if we deny this fact then it will be violation of the fundamental rights of these applicants.



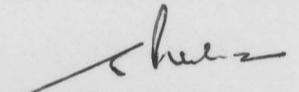
10. It is settled that if a scale has been granted to a specific post then that scale cannot be reduced on the ground that higher duties and responsibilities are not attached to that post.

11. For the reasons mentioned above we are of the opinion that these applicants are also entitled to the same treatment as has been given to Sri A.K. Jain, Assistant Statistician, it is also held that as earlier the post of Assistant Statistician and Field Supervisor were at par hence respondents cannot distinguish the pay scale of Field Supervisor and that of Assistant Statistician. These applicants are entitled to the scale of Rs.3700-5700/- (pre-revised), the letter issued by the respondents denying the scale of Assistant Statistician 3000-4500 (pre-revised) to these applicants is liable to be quashed and the O.A. deserves to be allowed.

13. O.A. is allowed, order dated 05th October, 1996 issued by the respondent No.4 denying the same pay scale equal to that of Assistant Statistician with Field Supervisor is quashed and it is held that the applicants are also entitled to the pay scale of Rs.3700-5700/- w.e.f. 01st November, 1996 after completion of 13 years of service. The respondent

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Nos. 01 to 04 are directed to make payment @Rs.3700-5700/- to these applicants in view of the letter dated 06th March, 1995 as has been paid by the respondent Nos. 01 to 03 in the case of Sri A.K. Jain. Respondents are directed to comply with the order passed by this Tribunal within a period of three months from the date when the copy of this order is produced before them. Applicant shall produce a copy of this order before the respondents at the earliest. No order as to costs.


Member-A


Member-J

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