

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Allahabad, this the 31st day of October, 1995.

Allahabad, this the day of October, 1995.

DA No.761 of 1993

and

DA No.1251 of 1993.

HON'BLE DR.R.K.SAXENA, J.M.

HON'BLE MR D.S.BAUDEJA, A.M.

... D.A.No.761 of 1993

1. M.P. SINGH, son of Sri Chhidda Singh, Senior Scientific Assistant, Defence Electronics Application Lab. Dehradun.
2. V.D. SHARMA, son of late Babu Ram Sharma, Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.
3. ABHAY JOSHI, son of late G.D. Joshi, ~~Defence~~ Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.
4. R.P. DOBHAL, son of late S.P. DOBHAL, Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.
5. NARENDRA KUMAR, son of Sri Uma Dutt Sharma, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.

6. A.K. KALRA, son of late K.C. Krishna, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
7. S.C. CHADHA, son of Sri K.K. Chadha, Senior Scientific Assistant, Instrument Research & Development Establishment, Raipur, Dehradun.
8. R.S. ANAND, son of late H.S. Anand, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
9. D.C. RATURI, son of late G.P. Raturi, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
10. S.K. SHARMA, son of Sri H. Sharma, Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.
11. P.S. CHAUHAN, son of late M.S. Chauhan, Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.
12. EDWARD DAVID, son of late M.D. David, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
13. POORAN SINGH, son of Sri Thakur Singh, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.

14. D.C. UPRETY, son of Sri H.D. Uprety, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
15. B.K. DOBHAL, son of Sri Atma Ram Dobhal, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
16. S.C. NEGI, son of Sri C.S. Negi, Senior Scientific Assistant, Instruments Research & Development Establishment, Raipur, Dehradun.
17. KANGLA SHUKLA, son of late Gopi Shukla, Senior Scientific Assistant, Defence Electronics Application Laboratory, Dehradun.

(through Mr G.D. Mukherjee, Adv) Applicants.

Versus

1. The Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.
2. The Scientific Adviser to Minister of Defence and Director General, Research & Development Organisation, South Block, New Delhi.
3. The Director, Instruments Research & Development Establishment, Raipur Road, Dehradun.
4. The Director, Defence Electronics Application Laboratory, Raipur Road, Dehradun.

--- Respondents.
(through Mr S.S. Anwar for Mr N.B. Singh, Adv.)

O.A.No.1251 of 1993

Sri Shiv Kumar Gupta and 10 Ors.....Applicants.

vs.

(same as in O.A. No.761/93.) ... Respondents.

ORDER

PER DR.R.K.SAXENA, MEMBER(J)

In both these O.As, common question is involved and, therefore, they are being disposed of by a common judgment.

O.A.No.761 of 1993 has been filed by 17 applicants, who are Senior Scientific Assistants (in short SSA) in the Defence Electronics Application Laboratory, Raipur Road, Dehradun. Of them, applicants No.1 to 4,10,11 and 17 are working in the Defence Electronics Application Laboratory, Raipur Road, Dehradun while the applicants No.5 to 9 and 12 to 16 are working in the Instruments Research & Development Establishment(I.R.D.E.) . Both these organisations are located at Dehradun.

O.A.No.1251/93 has been filed by 11 applicants. Of them, applicants No.1 to 10 are working as Senior Scientific Assistants in the office of Instruments Research & Development Establishment, Raipur Road, Dehradun, while applicant No.11 is working as such in the office of Defence Electronics Application Laboratory Road, Dehradun.

From the pleadings of the parties

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2

in both these cases, ^{and} ~~there are~~ ¹ judgments which were delivered by different Benches on the same points, it imports that Defence Research and Development Organisation (D.R.D.O.) is the research and development wing of defence. Several laboratories and establishments are located at various places in the country. The employees in the lower cadre of these laboratories and establishments are Scientific Assistants, technical employees, industrial workers and all the employees of ministerial duties. Senior Scientific Assistants (for short SSA) are promoted from the categories of Junior Scientific Assistants chargeman Grade-II and Grade-I. It appears that disparity in the grades of different categories of employees existed for long. According to the recommendations of the 3rd Pay Commission, the grade of foreman was Rs.840-1040, grade of SSA was Rs.550-900 and of Chief Draughtsmen was Rs.700-900. The next promotion for all these categories of employees was of Junior Scientific Officers which was a Gazetted post. The ratio for the promotion of these three categories was 10:83:7.

The employees of the category of SSA had been agitating for the increase of their scale equal to the post of foreman. In order to remove the disparity, the Expert Classification Committee was constituted and the said committee suggested in 1979, the pay scale of Rs.650-1040 for the SSA but the said grade was rejected by SSAs. The matter was, therefore, referred to the Joint Consultative Machinery where they recorded their

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disagreement on 22.9.1982. Consequently, the matter was referred for arbitration because in such a situation arbitration was obligatory. However, the matter came before the Arbitration Board, which gave its award on 12.8.1985. The important aspect of the award was that 49% of the SSAs ^{were to be} ~~as~~ given upgraded scale of Rs.840-1040 with effect from 22.9.1982. When the award was not implemented, some of the SSAs filed O.A. in the year 1986 Scientific Workers Association and others vs. Union of India (OA No.952 of 1986) before the Principal Bench of this Tribunal. When the said O.A. was pending, the Central Government had taken a decision on 11.11.1988 to implement the said Award w.e.f.1.1.1988. The Director(Personnel) suggested up-graded scale to such SSAs who had completed three years of service and who had not been found unfit. Besides, 40 point roster was also made applicable for the same. Accordingly, the government order, the copy of which is Annexure-I in OA 761/93, was issued. The result was that 822 posts in DRDO were made of the revised scale of Rs.840-1040 while only 101 posts in DGOA were made of the said revised scale. By the 4th Pay Commission this grade of Rs.840-1040 was raised to Rs.2375-3500.

The grievance of the applicants in this case, however, is that by introducing 40 point roster system in the post of up-gradation of the scale, is ^{bad and} illegal because 40 point roster system is applicable only when promotion is involved. In this connection, the judgments ^{delivered} ~~referred~~ by Bangalore Bench in O.A.No.458 to 500 of 1990 R.Pinto & ors vs. Union of India and ors and rejection of the SLP

by the Hon'ble Supreme Court on 17.7.1992 had been referred to.

The relief claimed by the applicants, therefore, is that the respondents be directed to give the benefit of up-gradation to the applicants from the date the benefit was extended to the immediate juniors and to pay the difference of pay and allowances to the applicants.

The respondents have contested the case by filing counter-reply of K. Krishna Mohan Rao. The introduction of 40 point roster system even in up-gradation has been contended to be valid and justified. The higher grade to the applicants is denied because they were not entitled according to the interpretation of the Government. Other facts that there was a dispute between the pay-scales of different categories of employees at lower level in the DRDO and the matter was being referred to for arbitration have been accepted.

The applicants have filed rejoinder re-iterating the same facts which were averred in the D.A.

We have heard the learned counsel for the parties and perused the record. The main question in these two cases is whether the applicants should be allowed the benefit of up-graded scale which could not be made available to them because of 40 point roster system. The Bangalore Bench of this Tribunal had considered this aspect in D.A.No.458 to 500 of 1990(R.Pinto's case (supra) decided on 9.1.1992. It was decided that

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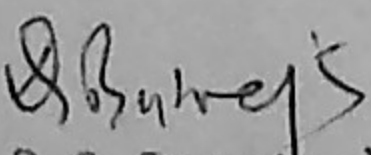
the application of the roster prescribing preference to SC/ST candidates to be placed in the up-graded post was not in accordance with law. It was further held that depriving the applicants for being considered for placement in the up-graded post and placing the respondents who were junior to the applicants in the up-graded post, could not be sustained. Considering the situation of the reversion of those employees junior to the applicants ^{who} were given higher scale, the Bench gave the finding that the placement of the respondents No.4 to 25 was left undisturbed because they were placed in the up-graded posts by the wrong application of the roster principle. It was directed that if the number of posts fell short for accommodating the applicants in the placement of the up-graded posts, the sufficient number of posts as to accommodate the applicants, would be up-graded. This judgment of Bangalore Bench was challenged by filing SLP before the Hon'ble Supreme Court but the same was dismissed on 17.7.1992.

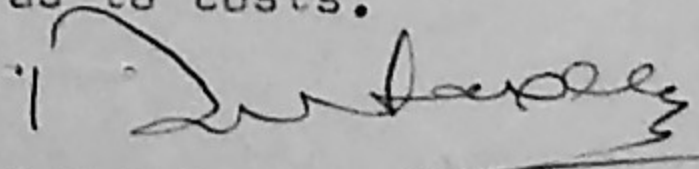
The Hyderabad Bench of this Tribunal also considered the matter factually and ^{on} legal aspects in OA No.1030/92 Shridhar & ors vs. Union of India and others decided on 22.7.1993 and followed the same principle which was enunciated by the ^{Bangalore} Hyderabad Bench. We, therefore, see no reason as to why the said principle, which was propounded by Bangalore Bench and followed by Hyderabad Bench and against which SLP was also dismissed, ^{should be} ~~was~~ not followed by the respondents in the cases before us.

We have given careful thought to the counter-reply, which has been brought on record on behalf of the respondents and find that nothing material has been pointed out. It would be really surprising that if a principle of law ^{which} has been laid down by a particular Bench in respect of one category of employees posted at one place, should not be made applicable to the same category of employees posted at a different place. There is no sense that the employees ^{should} run to the Courts or Tribunal and seek redress and then the implementation has to be done.

In view of the decision of the Bangalore Bench, which was followed by Hyderabad Bench and which was affirmed by the Hon'ble Supreme Court by rejecting the SLP., we are of the view that the same view is applicable in these two cases. Consequently, the applicants are entitled to the up-graded scale from the date when their juniors got it. We further make it clear that if the number of posts which are placed in the up-graded scale, falls short, such number of posts, as may accommodate the applicants or other similarly situated persons, be made available. The judgment be complied with within three months.

Both the O.A.s are , therefore, decided accordingly. No order as to costs.


(D.S. Baweja)
Member(A)


(R.K. Saxena)
Member(J)

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