

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 20th day of September, 2002.

Original Application No. 33 of 2002 (U)
(Diary No. 3704/2002)

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

1. Chandra Pal Ticket No. 447883, F.G.M
S/o Late Hirwa. Vill. Mohanpura, Post. Milap Nagar,
Distt. Haridwar
2. Mahabir Singh T. No. 462055 FGM,
S/o Late Fakar Singh, H.No. 665/3, MES Colony,
Meerut Road, Roorkee, Distt. Hardwar (Uttaranchal)
3. Kundan Singh T.No. 369755, FGM. S/o Sri Dhan Singh
H.No. 670/6, MES Colony, Meerut Road, Roorkee,
Post- Roorkee. Distt. Haridwar.
4. Kuwar Singh T.No. 369775,FGM. S/o Sri Daulat Singh
H.No. 664/4, MES Colony, Roorkee, Hardwar, Uttaranchal.
5. I.Jhon T.No. 447403 FGM. S/o M. Jhon
664/1, MES Colony, Roorkee, Hardwar.
6. Jamira T.No. 445985 FGM. S/o Sri Abdul Hamid
Nangla Imati, P.O Milap Nagar, Roorkee, Hardwar
7. Murat Ram T.No. 447040, FGM. S/o Late Sangat Ram
Vill. Pauli Gujar, Post. Milap Nagar,
Roorkee, Hardwar.
8. Ram Lal T.No. 448229 FGM, S/o Sri Gangadeen
H.No. 29, Chaumandi, Roorkee, Distt. Hardwar.
9. Rameshwar Dayal T.No. 447402 FGM, S/o Sri Atma Ram
98C, Ashok Nagar, P.O. Roorkee, Distt. Hardwar.
10. Satish Yadav T.No. 447591 FGM. S/o Sri Tulsi Ram
152, Ganesh Pur, Roorkee, Distt. Hardwar (Uttaranchal).
11. Prem Singh T.No. 468195,FGM. S/o Sri Sangta Ram
Vill. Bhageri, Post-Bhageri, Distt. Hardwar.
12. Darshan Singh T.No. 447308 FGM. S/o Sri Chatar Singh
CFG Near I.B. P.O. Roorkee, Distt. Hardwar.
13. Gyan Singh T.No. 447088, FGM. S/o Sri Tailu Ram
H.No.12, MES Colony, P.O. Roorkee Distt. Hardwar.
14. Hira Singh T.No. 447316 FGM. S/o Sri Khusher Singh
H.No. 671/2, MES Colony, Meerut Road, P.O Roorkee,
Distt. Hardwar.
15. Jaibhan Singh T.No. 447141 FGM. S/o Sri Surna Ram
672/6, MES Colony, Meerut Road, Roorkee, Harwdar.

16. Amrik Singh T.No. 447797, FGM. S/o Late Kartar Singh
150, Railway Road P.O. Roorkee Distt. Hardwar.
17. Narendra Kumar T.No. 461815, FGM. S/o Late Hemram
H.No. 668/4, MES Colony, Meerut Road, Roorkee, Hardwar
18. Jahir Hussain T.No. 447741, FGM. S/o Sri Jarif Hussain,
28, Mohammadpur, P.O. Milap Nagar, Roorkee, Haridwar.
19. Chandra Prakash T.No. 447406 FGM S/o Late Raghunath Lal
161, Ram Nagar, Roorkee, Hardwar.
20. Radhey Lal T.No. 447400 FGM, S/o Sri Beni.
664/5, MES Colony, Post-Roorkee, Distt. Hardwar.
21. Mukh Ram T.No. 446199, FGM, S/o Sri Gauri Ram
Vill. Bhageri Post-Bhageri. Distt. Hardwar.
22. Megh Raj T.No. 447085 FGM S/o Sri Chatar Singh
Vill. Salempur Rajputana, Post-Roorkee Distt. Hardwar.
23. Hari Lal T.No. 446151 FGM, S/o Sri Jwala Prasad
165, Ganeshpur, Post-Roorkee, Hardwar.
24. Pritan Singh T.No. 447784 FGM, S/o Sri Radhu Ram
H.No. 73, Milap Nagar, P.O. Milapnagar, Roorkee,
Hardwar.
25. Satish Sharma T.No. 448540 FGM, S/o Late Shri Ram
H.No. 663/3, MES Colony, Meerut Road, PO. Roorkee,
Distt. Hardwar.
26. Motilal Yadav T.No. 447429 FGM. S/o Sri Girdhari Lal
Vill. Mohanpur, Dabal Phatak P.O. Mohanpur
Roorkee, Distt. Hardwar.
27. Raitu Lal T.No. 447747 FGM. S/o Late Sukh Ram
Vill. Mudet Post Manglore Distt. Hardwar (Uttaranchal).
28. Anand Prakash T.No. 448658 FGM S/o Sri Balwant Singh
668/3, MES Colony, Meerut Road, Post Roorkee, Hardwar.
29. Raja Ram T.No. 361829 FGM. S/o Late Naldatt
Ashok Nagar, Siwatri Colony, Post Roorkee, Hardwar.
30. Gabar Singh T.No. 448657 FGM S/o Sri Mahawan Singh
H.No. 666/6 MES Colony, Meerut Road, Post Roorkee,
Hardwar.
31. Bharat Singh T.No. 447828 FGM S/o Indra Singh
Vill. Hahwar Kali Khal, Roorkee, Distt. Hardwar.
32. Ram Prakash T.No. 448656 FGM. S/o Late JN Kotwala
666/3 MES Colony Meerut Road, PO. Roorkee, Hardwar.
33. Mast Ram T.No. 437206 FGM. S/o Late Abhai Ram
H.No. 6, MES Colony Post Roorkee, Hardwar.
34. Hari Ram T.No. 499246 FGM. S/o Sri Shiv Ram
39, Chaumandi Roorkee, Distt. Hardwar.

35. Charan Das T.No.444397,FGM. S/o Late Jai Ram Balmiki Nagar, Gole Phatak, Roorkke, Hardwar.
36. Mahesh Pawar FGM. S/o Sri Shankar Pawar H.No. 5, Briged Marg, Roorkee, Post Roorkee, Hardwar.
37. Amarjeet Singh T.No. 447919 FGM. S/o Sri Pritam Singh H.No. 455, Gali No. 10, Ram Nagar Camp, Post-Roorkee, Distt. Hardwar.
38. Tailu Ram T.No. 447796 FGM. S/o Sri Sukh Ram Vill. Munder, Post Manglore, Hardwar.
39. Bal Kishan T.No. 447795, FGM S/o Late Buxi Raghunath H.No. 389, Ram Nagar, P.O Roorkee, Hardwar.
40. Prem Singh T.No. 446158,FGM S/o Sri Barumal Vill.Bhageri Post Milapnagar Roorkee, Hardwar.
41. Mehar Singh T.No. 447711 FGM. S/o Khahla Singh Vill. Bhageri Post Milapnagar, Roorkee, Hardwar.
42. Sumari FGM,.S/o Late Shiv Charan , T-56, Pump House No. 2, Roorkee Cantt.
43. Bijainder Singh FGM. S/o Late Mangu Singh Vill. Mubarakpur, PO. Mohammadpur, Roorkee.
44. Jag Mohan Joshi T.No. 456813,FGM S/o Late Madhawanand. H.No. 666/11, MES Colony, Roorkee Cantt. Hardwar.
45. Khadak Singh T.No. 455694 FGM S/o Late Narain Singh Vill. Dandera Post Milapnagar, Roorkee, Hardwar.
46. Sadhu Ram S/o Sri Shobha Ram Vill. Muneth, Post-Milap Nagar, Roorkee, Hardwar.
47. Akhtar Ali S/o Sri Najim Mohd. Vill. Mohanpura, Post Milap Nagr, Roorkee, Distt. Hardwar.

Even applicants working at present at the office of Garrision Engineer, MES (Roorkee), Hardwar.

.....Applicants

Counsel for the applicants :- Sri M.K. Mishra

V E R S U S

1. Union of India through the Secretary, M/o Defence, NewDelhi.
2. Engineer-in-Chief, Branch Office, Army Head Quarter, New Delhi.
3. Chief Engineer, Central Command, Lucknow.
4. Commandar Works Engineer, Hills, Dehradoon.
5. Garrision Engineer (U), Roorkee.
6. Asstt. Account Officer, Garrision Engineer U&P, Roorkee.

.....Respondents

Counsel for the respondents :- Sri R.C. Joshi

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O R D E R

(By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed that impugned order dated 05.10.1999 (annexure-1) be quashed and direction be issued to the respondents to provide night duty allowances.

2. The facts, in brief, giving rise to this O.A are that the applicants were initially appointed as Motor Pump Attendants (M.P.A) which was redesignated as Pump House Operator (P.H.O) and Driver Engine Static (D.E.S) ^{in the year 1994} in the respondent's establishment. These posts later on ^{in the year 1994} redesignated as Fitter General Mechanic (F.G.M) ^{in the year 1994} in the year 1994. Prior to ~~in response~~ of the impugned order, the applicants were drawing night duty allowances. By the impugned order dated 05.10.1999, the night duty allowances of the applicants has been stopped.

3. Sri M.K. Mishra, learned counsel for the applicants submitted that the nature of trade is same, they are doing the same job and, therefore, the action of the respondents in stopping their night duty allowances is irregular and is unjustified. The learned counsel for the applicant also invited my attention to annexure- 6 of the O.A and submitted that a similar controversy was raised before the Chandigarh Bench of this Tribunal in O.A No. 978/2000 which was decided by order dated 20.07.2001.

4. Sri Chandrika Prasad, holding brief of Sri R.C. Joshi, learned counsel for the respondents raised the preliminary objection of ~~the~~ limitation showing that the cause of action arose on 05.10.1999 and this O.A has been filed on 10.09.2002 and the O.A is time barred.

5. I have considered the submissions of learned counsel for the parties and perused ~~the~~ records.

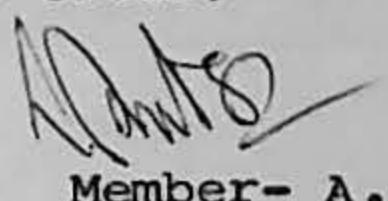
6. As regards the ground of limitation in filing of OA, it appears that since the issue is already pending with the Government of India for decision, the O.A is maintainable. I have also perused the judgment dated 20.07.2001 of this Tribunal Chandigarh Bench passed in OA No. 978/2000 (Supra) and the present O.A is squarely covered by that judgment. Following order has been passed by the Chandigarh Bench :-

"On a consideration of the matter, we are of the view that the controversy raised in this application is squarely covered by the decision of the Guwahati Bench in the case of M.C. Deb & Ors (Supra). Learned counsel appearing for the respondents by reference to the written statement or otherwise could not point out any material which could show that the case of the applicants in the present O.A is different or that the applicants are not entitled to the relief as granted by the Guwahati Bench on any other ground.

In view of the above, the O.A is allowed, without any order as to costs in the same terms as in the case of M.C Deb & Ors. (Supra)."

7. I am in respectful agreement with the order dated 20.07.2001 passed by the Chandigarh Bench of this Tribunal in O.A No. 978/2000 (Supra) which is based on the view taken by the Guwahati Bench of this Tribunal in O.A No. 1030/2000 M.C. Deb and others Vs. U.O.I and Ors. The O.A is, therefore, allowed. The respondents are directed to decide the case of the applicants in the light of the directions given by the Chandigarh Bench of this Tribunal in O.A No. 978/2000 and Guwahati Bench in O.A No. 1030/2000 in case of M.C Deb and Ors.

8. No order as to costs.



Member- A.

/Anand/