***CENTRAL ADMINISTRATIVE TRIBUNAL***
***ALLAHABAD BENCH***
***ALLAHABAD***

Original Application No. 956 of 2008 along with connected matters

Date of Decision 8.2.2011

Gopal Krishna Applicant(s)

Sh. A.K. Singh & Mrs. Rekha Singh Counsel for the Applicant(s)

V E R S U S

U.O.I. & others Respondents(s)

Sh. Ved Prakash & others Counsel for the Respondents(s)

***CORAM :***

Hon'ble Mr. Justice S.C. Sharma Sr. Member (J)/HOD.

Hon'ble ~~Mr.~~/Mrs. Manjulika Gautam Member (A)

✓1. Whether Reporters of local News Papers may be allowed to seen the Judgment?

✓2. To be referred to the Reporters or not?

✓3. Whether their Lordship wish to see the fair copy of the judgment.

✗4. Whether to be circulated to all the Benches.

SIGNATURE

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL**
**ALLAHABAD BENCH,**
**ALLAHABAD**

**Original Application No. 956 of 2008**
Connected with
**Original Application No. 957 of 2008**
**Original Application No. 958 of 2008**
**Original Application No. 959 of 2008**
**Original Application No. 960 of 2008**

Allahabad this the, 8th day of February, 2011

**Hon'ble Mr. Justice S.C. Sharma, Member (J)**
**Hon'ble Mrs. Manjulika Gautam, Member (A)**

**O.A. No. 956 of 2008**

Gopal Krishna A-II-39 S/o Late Sri U.C. Gulati, Resident of Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Applicant**

**By Advocates: Mr. A.K. Singh**
**Mrs. Rekha Singh**

**Vs.**

1. Union of India through Defence Secretary, Ministry of Defence, South Block, New Delhi.

2. General Manager, Ordnance Factory, Raipur, Dehradun.

**Respondents**

3. Sri B.D. Thapliyal, A-II-16, Resident of: B-Block, Race Course, Sumanpuri, Dehradun – 248 008.

4. Sri C.D. Shukla, A-II-08, C/o Junior Works Manager, Resident of: Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Proforma Respondents**

**By Advocate: Mr. Tej Prakash**

**O.A. No. 957 of 2008**

Rajesh Dutta A-II-45 S/o Late Sri Shyam Dutta, Resident of: 112, Tapovan Enclave, Aamwala, Shahastradhara Road, Dehradun.

**Applicant**

**By Advocates: Mr. A.K. Singh**
**Mrs. Rekha Singh**

**Vs.**

1. Union of India through Defence Secretary, Ministry of Defence, South Block, New Delhi.

2. General Manager, Ordnance Factory, Raipur, Dehradun.

**Respondents**

3. Sri B.D. Thapliyal, A-II-16, Resident of: B-Block, Race Course, Sumanpuri, Dehradun – 248 008.

4. Sri C.D. Shukla, A-II-08, C/o Junior Works Manager, Resident of: Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Proforma Respondents**

**By Advocate: Mr. S.N. Chatterji**

## O.A. No. 958 of 2008

Anil Kumar Singh A-II-20 S/o Sri Ram Swaroop Singh, Resident of: Lane-A, House No. 99, Raksha Puram, Ladpur, Post Office: Raipur, Raipur Road, Dehradun.

**Applicant**

**By Advocates: Mr. A.K. Singh**
**Mrs. Rekha Singh**

**Vs.**

1. Union of India through Defence Secretary, Ministry of Defence, South Block, New Delhi.

2. General Manager, Ordnance Factory, Raipur, Dehradun.

**Respondents**

3. Sri B.D. Thapliyal, A-II-16, Resident of: B-Block, Race Course, Sumanpuri, Dehradun – 248 008.

4. Sri C.D. Shukla, A-II-08, C/o Junior Works Manager, Resident of: Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Proforma Respondents**

**By Advocate: Mr. Himanshu Singh**

## O.A. No. 959 of 2008

Ganesh Singh, A-II-38 S/o late Sri Hulsi Singh, Resident of Assembly IInd, Ordnance Factory, Raipur, Post Office: Raipur, Dehradun – 248 008.

**Applicant**

**By Advocates: Mr. A.K. Singh**
**Mrs. Rekha Singh**

**Vs.**

1. Union of India through Defence Secretary, Ministry of Defence, South Block, New Delhi.

2. General Manager, Ordnance Factory, Raipur, Dehradun.

**Respondents**

3. Sri B.D. Thapliyal, A-II-16, Resident of: B-Block, Race Course, Sumanpuri, Dehradun – 248 008.

4. Sri C.D. Shukla, A-II-08, C/o Junior Works Manager, Resident of: Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Proforma Respondents**

**By Advocate: Mr. D.N. Mishra**

## O.A. No. 960 of 2008

Vimal Kumar Verma, A-II-17 S/o Sri C.L. Verma, Resident of: Assembly IInd, Ordnance Factory, Raipur, Post Office: Raipur, Dehradun: 248 008.

**Applicant**

**By Advocates: Mr. A.K. Singh**
**Mrs. Rekha Singh**

**Vs.**

1. Union of India through Defence Secretary, Ministry of Defence, South Block, New Delhi.

2. General Manager, Ordnance Factory, Raipur, Dehradun.

**Respondents**

3. Sri B.D. Thapliyal, A-II-16, Resident of: B-Block, Race Course, Sumanpuri, Dehradun – 248 008.

4. Sri C.D. Shukla, A-II-08, C/o Junior Works Manager, Resident of: Assembly IInd, Ordnance Factory Raipur, Post Office: Raipur, Dehradun – 248 008.

**Proforma Respondents**

**By Advocate: Mr. Avinash Kumar Verma**

## O R D E R

**By Hon'ble Mr. Justice S.C. Sharma, J.M.**

All the aforesaid Original Applications are connected as the matter in controversy in all the Original Applications are identical and hence in order to avoid the repetition, all the cases were ordered to be listed together and as none of the parties disputed regarding the controversy involved in all the Original Applications hence with the consent of learned counsel for the parties, above mentioned Original Applications are decided together by consolidating the same, and O.A. No. 956 of 2008 shall be

the leading case. Order in O.A. No. 956 of 2008 shall cover all the above mentioned Original Applications.

2. Under challenge, in the instant O.A., is the order dated 10.07.2008 passed by respondent No. 2. Further prayer has also been made for giving direction to the respondent No. 1 and 2 to pay the scale in question i.e. ₹ 330-480 (pre-revised) to the applicant in the grade of Photo-Etcher (Graticule) Grade-A/Photo-Etcher (General) from the date of his initial appointment i.e. 23.01.1988 and other service benefits attached to the post in question.

3. Same relief (s) have been claimed in all the connected Original Applications hence, it is not necessary to repeat the relief (s) claimed in all the Original Applications.

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

"That the applicant had undergone training for Boy Artisan in the Ordnance Factory, Dehradun from 23.07.1984 to 22.01.1988. Applicant was trained for Specialist trade i.e. Optical Worker in pursuance of letter dated 30.11.1957 issued by respondent No. 1. After completing 3½ years 'Boy Artisan' training and also having passed requisite suitability test, applicant was

appointed/absorbed as Optical Worker (Skilled) in the pay of ₹ 950/- per month in the scale of ₹ 950-20-1150-EB-25-1500 (pre-revised scale of ₹ 260-400) w.e.f. 23.01.1988. The applicant was recruited for training of 'Boy Artisan' by Superintendent of 'factory' under the instruction of Director General of Ordnance Factory after following the entrance test. It is stated that w.e.f. 23.01.1988 (the date of his initial appointment), respondent No. 2 had engaged the applicant in 'Graticule Work' of photo-etching whereas the applicant was appointed as Optical Worker. Under these circumstances, the applicant performed highly specified microscopic work and marks on lenses and glass used in most sophisticated modern weapons used by our Armed Forces. The applicant had been performing the similar duties and responsibilities of photo-etcher (graticule) as performed by respondent No. 3 and 4. The respondent No. 3 was absorbed as photo-etcher 'B' w.e.f. 01.04.1965 (semi-skilled) and promoted to photo-etcher (skilled) w.e.f. 02.05.1979 in the scale of ₹260-350. Thereafter, w.e.f. 16.10.1981 he had been drawing salary in the scale of ₹ 330-480 vide factory order (annexure No. 3). The respondent No. 4 was also absorbed as Assembler 'C' grade w.e.f. 06.02.1979 in the scale of ₹ 210-290, then promoted to Photo-etcher (skilled) w.e.f. 02.05.1979 in the

scale of 260-350. Thereafter, w.e.f. 16.10.1981, he had also been drawing salary in the scale of ₹ 330-480. The respondent No. 3 and 4 were absorbed in the factory as semi-skilled optical workers whereas applicant was absorbed as skilled worker (Optical) and performing the similar duties and responsibilities (exactly identical work) since the date of their initial appointment, however, respondent No. 2 denying the 'Equal Pay for Equal Work'. The applicants had made several representations to the respondents for up-gradation from the post of Optical Worker to Photo-etcher (Graticule). It is stated that in the interest of 'Production of Factory', Factory administration trained the applicant in Graticule work. After completing the training of graticule work, the applicant also passed the special trade test i.e. graticule. That the applicants were engaged in the work of graticule by the administration since the date of his initial appointment. Respondent No. 3 and 4 had been benefited by putting them in higher scale from ₹ 260-400/- to ₹ 330-480/- (Revised ₹ 3050-4590 to ₹ 4000-6000) since 16.10.1981, and they had also been engaged exactly in similar duties and responsibilities, as performed by the applicant and hence the applicants are also entitled to the same scale and other service benefits attached with the photo-etcher graticule Grade-A. A Guha Committee was appointed by

the Ordnance Factory Board, Calcutta for rationalization of trade who abolished the trade of photo-etcher (graticule) in July, 1989 and the photo-etcher (graticule) was merged with the main trade of Photo-Etcher i.e. Photo-Etcher (General) of trade. The applicants had no concern with the merger because since 23.01.1988 he has been engaged continuously even today in the 'Graticule Work of Photo-Etching', as such, he is entitled to the similar pay scale and other service benefit attached to the Photo-Etcher (General) or availed by the respondents No. 3 and 4. It is stated that the applicant is entitled to the pay scale of Rs. 330-480 (pre-revised) from the date of initial appointment i.e. 23.01.1988 because the nature of cause of action of applicant is continuing and shall pinch the nerve of the applicant till his superannuation, therefore, question of delay is immaterial in view of Judgment of the Hon'ble Apex Court. It is stated that status of the applicant is equal to Photo-Etcher (General) in view of his duties and responsibilities rendered by them. Earlier an O.A. No. 388 of 2006 was filed before the Tribunal and the O.A. was decided on 02.04.2008, annexure A-4 is copy of the order, and in pursuance of the Order of the Tribunal, the order dated 10.07.2008 was passed. The respondents have not agreed with the grievance of the applicant hence the O.A.

5. The respondents contested the case and filed Counter Reply. It has been alleged by the respondents that Mr. Vimal Kumar Verma, Optical Worker (HS), Shri Ganesh Singh, Chargeman-II (QCF), Shri Rajesh Dutta, Optical Worker (HS) and Shri Anil Kumar Singh, Optical Worker (H/S) were absorbed on 27.09.1984, 23.01.1988, 01.10.1982, 23.01.1988 and 23.01.1988 respectively after completion of 3½ years 'Boy Artisan' training and on passing the trade test of Optical Worker (Skilled Grade) in this factory as Optical Worker (Skilled Grade) but they were assigned the work of Photo Etcher (Graticule), to meet the requirement of workload. It is up to the management to decide upon the field of utilization of the services of any employee keeping in view the varying work-load to meet the urgent requirement of Armed Forces. The applicants demanded up-gradation of their pay scale to the pay scale of Photo-Etcher (Graticule) from the date of their initial appointment in the factory, citing the similar up-gradation effected in respect of Mr. C.D. Shukla and Mr. B.D. Thapliyal-the respondent No. 3 and 4 but this up gradation on parity with these respondents, is not admissible to the respondents because these two respondents were given the up gradation scale from 16.10.1981 in terms of Expert Classification Committee recommendations, and at that point of time two had been

working as Photo-Etcher (Graticule). Full particulars of Mr. B.D. Thapliyal and C.D. Shukla had been given in the Counter Reply. It is stated that the request of up gradation of the applicants was turned down on the ground that there cases hopelessly time barred because it was almost 15-20 years and that they were not covered under the relevant rules. It is stated that earlier these applicants approached the Central Administrative Tribunal, Allahabad Bench seeking direction to the General Manager for up gradation of the pay scale from the back date. The Central Administrative Tribunal, Allahabad Bench heard the arguments of learned counsel for the parties numerous times and ultimately the Original Applications were decided vide order dated 02.04.2008. The applicants were required to submit the representation afresh seeking up gradation and the respondents were required to decide the representation within a period of three months. Representations were submitted by the applicants, and the same was decided by the respondents on 10.07.2008. The ECC headed by Hon'ble Mr. Justice K.C. Puri (Retd.) of Allahabad High Court considered the matter for up-gradation and formulated certain principles. The scale of Rs. 260-400 was upgraded to Rs. 330-480/- (Revised Rs. 3050-4590 to Rs.4000-6000), and it was only with respect to the respondent No. 3 and 4 who were

holding and working on the post of Photo-Etcher (Graticule) skilled grade on or before 16.10.1981. The applicants were appointed after the effect of ECC recommendation i.e. 16.10.1981 hence the question of up gradation of their pay scale does not arise because the ECC had upgraded the pay scales. The ECC bifurcated the employees of the Ordnance Factory into five standards scales of unskilled, semi-skilled, skilled, highly skilled Grade II and highly-skilled Grade-I, and subsequently the Guha Committee had also rationalized the trades. The Guha Committee had abolished the trade of Photo-Etcher (Graticule) in July 1989, and it has been merged with the main trade of Photo-Etcher. The applicant had approached in the year 2003 after about 15 to 20 years from their joining the Department, and it is highly belated and O.A. is liable to be dismissed on this ground alone. Up-gradation ought to have been considered in the light of ECC recommendations and the cases of respondents No. 3 and 4 were considered in the light of ECC recommendations and only two persons got the benefit of recommendation on 16.10.1981, and on that date these two were working on that post. It is claimed that the O.A. is liable to be dismissed.

6. We have heard Mr. A.K. Singh, Advocate for the applicant in all the O.As and Mr. S.N. Chatterji, Mr. Himanshu Singh, Mr. D.N. Mishra, Mr. A.K. Verma and Mr. Tej Prakash, Advocates for the respondents in the respective O.As, and perused the facts of the case.

7. From perusal of pleadings of the parties, it is evident that the applicants were initially appointed as 'Boy Artisan' in the Ordnance Factory, Dehradun. It is also an admitted fact that the applicant had undergone an exclusive training of 3 ½ years as Boy Artisan. On 22.01.1988 after completion of training under specialist trade i.e. Optical Worker, they were appointed and absorbed as Optical Worker (Skilled) in the pay scale of Rs. 950-1500/- per month in the pay scale of Rs. 950-20-1150-EB-25-1500 (pre-revised scale of Rs.260-400) w.e.f. 23.01.1988. It is also undisputed fact that w.e.f. 23.01.1988 from the date of initial appointment, these applicants were engaged in the trade of Graticule work of Photo-etching whereas applicant was appointed as Optical Worker. It has also been alleged by the applicant admitted by the respondents that the trade of Graticule work of Photo-etching is highly specialized microscopic work. It has also been alleged by the applicant and not disputed by the respondents that the respondent No. 3

and 4 had already been working as Photo-Etcher and it is also undisputed fact that Mr. C.D. Shukla and Mr. B.D. Thapliyal- respondent No. 3 and 4 were engaged much earlier to the induction of the applicant in the trade. B.D. Thapliyal was appointed w.e.f. 01.12.1976 and subsequently re-designated as Photo-Etcher Graticule and up-graded from 16.10.1981 whereas C.D. Shukla- respondent No. 4 was initially appointed as Assembler 'C' grade w.e.f. 06.02.1979 and subsequently re-designated as Photo-Etcher (Graticule) and upgraded from 16.10.1981. The applicant had been claiming parity with respondents No. 3 and 4 and they have alleged that as these respondents are working as Photo-Etcher (Graticule) and the respondents are also engaged in the same trade hence the applicant is also entitled for the same pay and benefits like respondent No. 3 and 4 on the plea of 'Equal Pay for the Equal Work'. But the respondents have disputed this fact of parity with respondents No. 3 and 4. They alleged that the respondents No. 3 and 4 were appointed much earlier to the applicant's appointment. B.D. Thapliyal was appointed initially on 01.04.1965 whereas promoted to Photo-Etcher (Skilled) w.e.f. 02.05.1979 whereas undisputedly the applicants were initially appointed after completion of 3 ½ years training on 23.01.1988. The respondents have alleged that as

respondents No. 3 and 4 were much senior to the applicant and they earned ACP and MACP by passing of the time and hence the emoluments of the applicant and these respondents cannot be the same. Here in this present case, controversy is not of same emoluments. Emoluments may differ from man to man according to his seniority and the years he has put in the services. Here the dispute is regarding the scale. It has been held by the Hon'ble Apex Court and Hon'ble High Court in different Judgments that identical pay must be for identical work.

8. It has been alleged by the applicant that they were initially appointed as Optical Worker (Skilled) but they were engaged in Graticule work of Photo-Etcher. It is specific case of the applicant that undisputedly the applicant was appointed as Optical Worker (Skilled) but he was engaged in different work and on his initial appointment the work was allotted of Graticule work of Photo-etching. The applicant himself averred that Mr. C.D. Shukla was initially appointed as Assembler 'C' w.e.f. 02.05.1979 and thereafter promoted as Photo-Etcher 'A' (Skilled) and Mr. B.D. Thapliyal was also initially appointed on 01.12.1976 and promoted to Photo-Etcher (A) and subsequently re-designated as Photo-Etcher (Graticule) and upgraded from 16.10.1981.

9. The respondents in para-4 of the Counter Reply have alleged that to meet the requirement of work load, these applicants were utilized by the Management for the work of Photo-Etcher (Graticule) from the date of their initial appointment. The respondents have alleged that these applicants were appointed as Optical Worker but they were assigned the work of Photo-Etcher (Graticule) even from the date of their initial appointment. It has also been argued by learned counsel for the respondents that the Management has got the right to engage any employee for any trade as per the requirement of the workload and considering the workload, these applicants, although appointed as Optical Worker (Skilled Grade) were engaged in the work of Photo-Etcher (Graticule) but the respondents have specifically stated that merely due to the fact that these applicants were engaged as Photo-Etcher (Graticule), they are not entitled for the up gradation. It is also undisputed fact that scale of Optical Worker was Rs. 260-400, whereas the scale of Photo-Etcher (Graticule) is Rs.330-480/-. Initially these applicants were appointed in the scale of Rs.260-400/- as Optical Worker. It has been alleged by the respondents that the respondents No. 3 and 4-Mr. C.D. Shukla and Mr. B.D. Thapliyal were upgraded w.e.f. 16.10.1981, and pre-revised scale of Rs.330-480/- was granted to these respondents. The respondents have

also alleged that for considering the up gradation of the employee working with the respondents, a Committee known as Expert Classification Committee (ECC) was constituted and that this Committee considered the matter of up gradation of respondents No. 3 and 4, and a recommendation was made by this ECC on 16.10.1981 to upgrade the scales of respondents No. 3 and 4 to Rs.330-480/-. It is alleged by the respondents that the applicants were appointed much later to these respondents and this benefit was admissible only to respondents No. 3 and 4 and hence the applicant is not entitled to this up gradation, which was granted to respondent No. 3 and 4 in pursuance of the recommendation of ECC and further the matter of recommendation was considered by Hon'ble Mr. Justice K.C. Puri (Retd.) of the Allahabad High Court. This Committee also recommended the up gradation of the pay scale of Photo-Etcher (Graticule), and only the pay scale of Photo-Etcher (Graticule) Skilled Grade, was upgraded from Rs.260-400/- to Rs.330-480/- (Revised Rs. 3050-4590 to Rs.4000-6000) was recommended. The applicants were appointed after 16.10.1981 and hence the up gradation of pay scale Photo-Etcher (General) or otherwise does not arise and subsequently a Committee was also constituted known as Guha Committee for further rationalization of the trades. The Guha Committee

had, in fact, abolished the trade of Photo-Etcher (Graticule) in July, 1989, and the trade of Photo-Etcher (Graticule) was merged with the main trade of Photo-Etcher. Under these circumstances, it has been alleged by the respondents that these applicants are not entitled to the up-gradation.

10. It is a fact that the applicants were appointed much later to the appointment of respondents No. 3 and 4. But we have to decide that what was the scale of pay on the date of initial appointment of this applicant. We have also stated that the applicant was appointed as 'Boy Artisan' and he was required to undergo the training of 3 ½ years and thereafter on completion of the training, this applicant was appointed as Optical Worker (Skilled) in the scale of ₹ 260-400. There can be no denial of the fact that the scale of the Optical Worker (Skilled) was at the relevant period was ₹ 260-400/-. The respondents have also admitted specifically that on initial appointment, the applicant was engaged for the work of Photo-Etcher (Graticule). The controversy to be decided by us is that whether the applicant is entitled to the scale of Photo-Etcher (Graticule) or irrespective of the fact that the applicant is engaged as Photo-Etcher (Graticule) but, even then they will get the scale of Optical Worker (Skilled). The

respondents have alleged that certain Committees were constituted; firstly of Hon'ble Mr. Justice K.C. Puri (Retired Judge of the Allahabad High Court) and this Committee was known as Expert Classification Committee and thereafter in order to recommend regarding the scales of workers of the Ordnance Factory a Guha Committee was also constituted. ECC recommended that pay scale of Photo-Etcher (Graticule) Skilled grade will be upgraded from ₹ 260-400 to ₹ 330-480 revised ₹ 3050-4590 to ₹ 4000-6000. The recommendations were made in order to upgrade the scale of Photo-Etcher Graticule (Skilled) to ₹ 330-480 pre-revised. It has been alleged that these recommendations came into effect on 16.10.1981 much earlier to the appointment of these applicants. The respondents are in a fix to state that whether as per recommendations of the ECC, scale of Photo-Etcher (Graticule) remained ₹ 260-400 or revised to ₹ 330-480. Because the respondents are in fix to state that the applicants are not entitled to this scale of pay as they were appointed much later to the appointment of respondents No. 3 and 4 on 16.10.1981 when the scales were revised as per recommendation of the ECC. We failed to understand that as to how the recommendations can be made regarding the up gradation of scale only for a particular persons and not for the post. We disagree with

this contention of the respondents that these scales were up graded only for respondents No. 3 and 4 and hence the applicants are not entitled to the benefit of that up gradation. We have stated above that after initial appointment, the applicant was engaged for the work of Photo-etching Graticule, and much earlier from 16.10.1981 scale of Photo-Etcher Graticule in the case of respondents No. 3 and 4 was upgraded to ₹ 330-480. No common man will agree with this contention of the respondents that the recommendation of the ECC was only regarding respondent No. 3 and 4, and hence these applicants cannot be benefited from the recommendation of up gradation. As these applicants were assigned the same work of Photo-Etcher (Graticule) and hence they are entitled for the scale of Photo-Etcher (Graticule). We disagree with this argument of learned counsel for the respondents that irrespective of the fact that the applicant was engaged at the time of initial appointment for the work of Photo-Etcher (Graticule) but, as the initial appointment was as Optical Worker hence they will continue to draw the same of Optical Worker (Skilled) and hence they are entitled for up gradation. There are catenas of Judgment of Hon'ble Apex Court that the equal pay admissible for equal work. In this connection, learned

Counsel for the applicant cited a judgment reported in

(2007)
*β UPLBEC 2608 Nehru Yuva Kendra Sangathan vs. Rajesh Mohan Shukla and others.* The Hon'ble Apex Court held that "*We find that the nature of duties being discharged by the Youth Coordinators who have come on deputation and have been absorbed as such and those who were directly recruited on fixed term are discharging the same duties. The only difference is their source of recruitment. Once the deputationists are discharging the same duties and are being paid salary and other allowances then there is no reason to deny the same benefits who are discharging the same duties and functions. Those deputationists now absorbed obtained the order from this Court but the direct recruits did not approach this Court, they were treated as a class apart because of their source of recruitment. Once these persons are already working for more than two decades discharging the same functions and duties then we see no reason why the same benefit should not be given to the respondents. Looking to the nature and duties of these respondents, we are of opinion that there is no reason to treat them differently.*"

Learned counsel for the applicant also cited a Judgment i.e. *(2008) 1 Supreme Court Cases 586 Union of India vs. Dineshan K.K.* In this Judgment *the principle of "equal pay for equal work had been considered, explained and applied in a catena of decisions of Hon'ble Suprme*

*Court. The doctrine of Equal Pay for Equal Work was originally propounded as part of the directive principles of the State Policy in Article 39 (d) of the Constitution. Thus, having regard to the constitutional mandate of equality and inhibition against discrimination in Articles 14 and 16, in service jurisprudence, the doctrine of 'equal pay for equal work' has assumed status of a fundamental right.* It is further held that "*Undoubtedly, when there is no dispute with regard to the qualifications, duties and responsibilities of the persons holding identical posts or ranks but they are treated differently merely because they belong to different departments or the basis for classification of posts is ex facie irrational, arbitrary or unjust, it is open to the court to intervene.* "

11. In view of the Judgment of Hon'ble Apex Court, the principle of equal pay for equal work has been accepted and if two sets of persons are discharging the same work, then they are entitled to the same pay and in the present case the applicant and respondents No. 3 and 4 are discharging the identical duties hence the applicant is entitled for equal pay for equal work. There appears no logic in this contention of the respondents that these scales were upgraded regarding only respondents No. 3 and 4 and implemented vide order dated 16.10.1981

much prior to appointment of the applicant and hence the applicant is not entitled to the scales. We disagree with this argument of learned counsel for the respondents that as per the recommendation of the ECC, the scales were upgraded only for a specific period in order to benefit only two persons. In pursuance of the ECC recommendations, the scales were upgraded forever w.e.f. 16.10.1981 and all the employees discharging the same duties are entitled to these upgraded scale, and in the same principle the applicants in the aforesaid O.As are also entitled to the up gradation of ₹ 330-480/- and the respondents have illegally denied these benefits to them. The applicants in the afore mentioned Original Applications are also entitled for revision of the scales consequently.

12. It has also been alleged by the respondents that for a long period of 15-20 years, these applicants remained silent and all of a sudden in the year 2006, these applicants were not justified to agitate the matter and that the Original Applications are hopelessly barred by limitation. We have considered the matter in controversy and grievances of the applicants. It is a fact that the respondents have agitated the matter after about 15-20 years but in the circumstances of the case it cannot be said barred by limitation. The matter of pay scale is

continuing process and employee is entitled to agitate this matter at any time because he will be benefited even today from the revision of pay scales. It has not been demonstrated before us that how the Original Applications are barred by limitation merely due to the reason that the applicants have agitated their grievance after 15-20 years but even then Original Applications are not barred by limitation as the applicants have continuing cause of action. We disagree with the contention of learned counsel for the respondents. Original Applications are perfectly within limitation.

13. For the reasons mentioned above, we are of the opinion that the applicants in the afore mentioned Original Applications are entitled for 'Equal Pay for Equal Work' as these applicants had been discharging the same duties as that of Photo-Etcher (Graticule) like that of respondents No. 3 and 4 and they are entitled to the same upgraded scale of ₹ 330-480 pre revised scale of ₹ 3050-4590 to ₹ 4000-6000/-. The Order dated 10.07.2008 is liable to be quashed and the applicants are entitled for revision of their scale ₹ 330-480 from the date of their initial appointment. Original Applications deserve to be allowed.

14. Original Applications are allowed. The Order dated 10.07.2008 is quashed. The respondents are directed to revise the pay scale of the applicants w.e.f. the date of their initial appointment to the scale of ₹ 330-480/- pre-revised. The respondents are further directed to comply the order within a period of three months when the copy of this order is produced before them. The applicants shall also produce the copy of the Order before the respondents forthwith. No cost.

15. Registry is directed to place a copy of this Order in all the connected Original Application, as aforementioned.

(Manjulika Gautam)
Member- A

{Justice S.C. Sharma}
Member – J

/M.M/