

Date of order : 14.05.1999

1. O.A. No. 69/1996

with

M.A. No. 31/1996

and

M.A. No. 32/1996

1. Bhanwari Lal s/o. Shri Sunder Ram - DES
2. Jai Dev S/o. Shri Hari Ram - DES
3. Balwant Rai S/o. Shri Raji Ram - DES
4. Mohan Lal S/o. Shri Sohani Ram - DES
5. Vidhyasagar S/o. Shri Nika Ram - DES
6. Mukhtej Singh S/o. Shri Vikram Singh - DES
7. Sohan Singh S/o. Shri Karnal Singh - DES
8. Leela Ram @ Leela Shanker S/o. Sh. Lachman Ram - DES
9. Rajendra Kumar S/o. Shri Sultan Ram - MPA
10. Pithi Raj S/o. Shri Kashi Ram - MPA aged 31 years
11. Lal Chand S/o. Sh. Manphool Ram aged 30 years - MPA
12. Ashok Kumar S/o. Sh. Deenanath 33 years - MPA
13. Prem Chand S/o. Sh. Ram Chandra aged 27 years - Carpenter.
14. Majinder Singh S/o. Shri Mohan Singh aged 28 years - Carpenter.
15. Jaswant Singh S/o. Shri Rawal Singh aged 28 years - Wireman.
16. Lekhraj S/o. Shri Sobha Ram aged 30 years - Refrigerator Mechanic.
All working in MES (P) Lalgarh, Jathan District, Sriganganagar.
17. Jai Singh S/o. Shri Chetram aged 32 years - Plumber working under Garrison Engineer (P), Fazilka.

... Applicants.

versus

1. Union of India through the Secretary to the Government, Ministry of Defence, New Delhi.
2. Commander Works Engineer (P), Sri Ganganagar.

... Respondents.

2. O.A. No. 76/1996

with

M.A. No. 34/1996

and

M.A. No. 35/1996

1. Satish Kumar S/o. Shri Kailash Chandra aged 29 years - Refrigerator Mechanic.
2. Har Govind Singh S/o. Shri Birbal Singh aged 26 years - Plumber.
3. Rajpal S/o. Shri Atmaram aged 30 years - P.H.O.
4. Arvind Kumar S/o. Shri Baijnath Sharma aged 30 years - Refrigerator Mechanic.
5. Shanker Lal S/o. Shri Birbal Ram aged 32 years, P.H.O.
6. Puran Ram S/o. Shri Chandu Lal aged 31 years - SBA.
7. Anil Kumar S/o. Shri Patrick aged 32 years, P.H.O.
8. Banwari lal S/o. Shri Amraram, aged 32 years - Carpenter.
9. Rajesh Kumar S/o. Shri Daraba Chand aged 29 years - SBA.
10. Darshan Singh S/o. Vichitra Singh aged 30 years - SBA.
11. Bhoop Singh S/o. Shri Lunaram aged 36 years, P.H.O.
12. Labhsingh S/o. Shri Mukand Singh aged 22 years - P.H.O.
13. Shiv Karan S/o. Shri Nathu Ram aged 32 years, D.Engg.
14. Atmaram S/o. Shri Gordhanram aged 32 years, D.Engg.
15. Sahib Ram S/o. Shri Badri Ram aged 32 years - Wireman.
16. Ravindra Kumar S/o. Shri Jasram aged 32 years, P.H.O.
17. Chandrabhan S/o. Shri Nathuram aged 32 years, P.H.O.
18. Jabarjang Singh S/o. Shri Jarnail Singh aged 31 years, P.H.O.

All working in the Office of GE(P), Abhore District, Firozpur.

L.R. of Shri Radhey Shyam :

- 19/1. Saroj Devi W/o. Shri Radhey Shyam S/o. Shri Hasmukh Ram aged 32 years.
- 19/2. Meenu Rani d/o. Shri Radhey Shyam.
- 19/3. Vinod Kumar S/o. Shri Radhey Shyam both minors - through their L.R. Smt. Saroj Devi, C/o. Shri Arvind Sharma, Street No. 2, Near Kundan Cinema, Abhore, Firozpur.

... Applicants.

v e r s u s

1. Union of India through the Secretary to the Government, Ministry of Defence, New Delhi.
2. Commander Works Engineer (P), Sriganganagar.

... Respondents.

Mr. Vijay Mehta, Counsel for the applicants.

Mr. K.S. Nahar, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. N.P. Nawani, Administrative Member.

O R D E R

(Per Hon'ble Mr. N.P. Nawani)

It is proposed to deal with these two Original Applications in a single judgement in view of the similarity of the facts and reliefs sought.

2. M.As Nos. 32/96 in OA No. 69/96 and 34/96 in O.A. No. 76/96, in which the prayers for filing a joint application were made by the applicants, are allowed.

3. In M.As Nos. 31/96 in OA No. 69/96 and 35/96 in OA No. 76/96, the applicants have prayed for condonation of delay in filing Original Applications. Considering the facts and reasons given, including specific reply addressed to the representationists having not been issued, we condone the delay in both these applications.

4. In these two OAs, the applicants prayed that the respondents may be directed to pay them the salary in the pay scale of Rs. 950-1500 from the date of their initial appointment as Refrigerator Mechanic, Plumber, Carpenter, Wireman, etc. etc. and they may be given the same benefits which has been granted vide order dated 16.9.95 (Annexure A/7 in OA No.76/96) in compliance of the order dated dated 8.8.94 of the Jodhpur Bench of the Tribunal in O.A. No. 79/92. They also seek quashing of the respondents' letter dated 15.10.94 (Annexure A/1 in OA No. 76/96) in which their representations for refixation in the pay

scale of Rs. 950-1500 was rejected.

5. Notice of these applications were sent to the respondents and they have filed their reply. Their contention is that the applicants were appointed in the pay scale of Rs. 800-1150 as can be seen from an appointment letter issued in the name of one Shri Satish Kumar, one of the applicants in the case. Therefore, the applicants had, of their own volition accepted the appointment in the pay scale of Rs. 800-1150, which is for semi-skilled grades, which has been provided in the modified recruitment rules of the post. They have been given skilled grades after completion of two years' probation period as per the provisions of Ministry of Defence letter dated 15.10.84. It has also been stated by the respondents that the judgement rendered by the Tribunal (supra) is not applicable as the recruitment has been done in the semi-skilled grade correctly. They have also not agreed that this is case of equal wages for equal work. The rejection of the representations made is, therefore, correct and there is no justification for its being quashed.

6. We have heard the learned counsel for the parties and gone through the records of the cases.

7. The learned counsel for the applicants has based his case primarily on two arguments. Firstly, the appointments of the applicants during 1987 and 1988 were made on the basis of the recruitment rules of 1971. These rules were made for the skilled categories in the pay scale of Rs. 950-1500 and there was absolutely no provision for candidates being initially appointed in the semi-skilled category with the lower pay scale of Rs. 800-1150. Therefore, the respondents were not competent to violate the recruitment rules and appoint the applicants in a lower pay scale on probation. Secondly, the applicants were appointed against the skilled posts and were discharging the duties in a similar and identical manner alongwith other skilled grade designated employees. It was also argued that similarly appointed employees had to be given the skilled grade by the respondents in compliance of the orders dated 10.5.90 passed by this Tribunal in OA No. 247/89 and 417/87, order dated 8.8.94 in OA No. 79/92 as also the order dated 21.12.98 in OAs Nos. 206/95 and 324/95. In view of these orders of the Tribunal, it is wrong

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for the respondents to deny the similarly placed employees to be given similar benefits as given to the employees in the above mentioned applications. The learned counsel for the applicants has also drawn our attention to the judgement dated 5.8.85 of the Apex Court in Writ Petition Nos. 4821 and 4817 of 1983, Dhirendra Chamoli and another vs. State of U.P., 1986 SCC (L&S) 187, wherein the State Government was asked to grant the salary and allowance to the Class-IV employees appointed by Nehru Yuvak Kendras in the same grade as given for the employees of the Central Government.

8. It was argued by the learned counsel for the respondents that as per policy letter of the Ministry of Defence, Government of India of January, 1985, certain categories were upgraded from semi-skilled to the skilled grade and it was clearly mentioned in sub para (b) of (i) that the direct recruits with ITI certificate etc. will first be inducted in the semiskilled grade and then promoted to the skilled category after rendering two years' service in the semi-skilled grade. The applicants were accordingly recruited in the semi-skilled category and after completion of two years probation period were given the skilled grade. The learned counsel also supported his arguments citing the judgement dated 30.8.1996 of the Apex Court in Civil Appeal Nos. 11486 and 11487 of 1996.

9. We have considered the entire matter carefully. We notice that after issue of the letter dated 15.10.84 by the Ministry of Defence, the Engineer-in-Chief in the Army Headquarters had vide his circular of 14th January, 1985, addressed to all the lower formations, intimated that necessary amendment to the recruitment rules will be issued separately. On perusal of the order of the Tribunal dated 8.8.94 in OA No. 79/92, it is found that according to the learned counsel for the respondents in that case, the recruitment rules were amended only in the year 1991. It is, therefore, clearly established that the applicants were appointed on the basis of the Recruitment Rules of 1971 according to which the recruitments were to be made in the skilled category and there were no provisions for placing the selected candidates first in the lower semi skilled category and then after two years' probation giving them the pay scale of skilled category. We, therefore, find that the views taken in

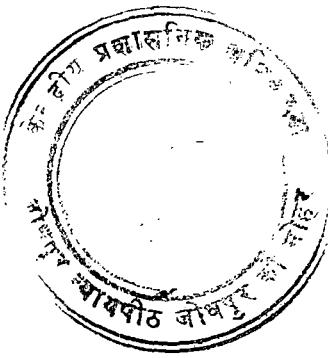
earlier orders of this Tribunal are fully in accordance with law and we find no reason as to why the applicants in these two applications should also not be given the same benefits of the pay scale of the skilled category from the date of their appointment with subsequent fixation of pay accordingly. The learned counsel for the respondents also opposed the contention of the applicants that they were doing exactly the similar job as has been performed by those promoted to the skilled category and, therefore, could ~~not~~ have been given a lower pay scale in violation of general principles of equal pay for equal work. We have gone through the judgement of the Apex Court cited by the learned counsel for the respondents in this regard. The judgement dated 30th August, 1996, reiterates that the Courts/Tribunals normally should not try to fix pay scales of different category of employees only on the principle of equal pay for equal work. In this particular judgement, the Apex Court has referred to the case of State of Madhya Pradesh and Ors. vs. Pramod Bhartiya and Ors., 1993 (1) SCC 539. We have gone through this case also and find that the case is distinguishable as it concerned non-technical lecturers in Technical Schools and in Government Higher Secondary Schools. In any case, we are not going into the question of parity between the pay scales of the applicants who were directly recruited and the promotees who have appointed in such posts in the skilled category. In our opinion, the applicants should be treated in the similar manner as the applicants in various orders of the Tribunal (supra) because of the fact that the Recruitment Rules under which they were selected and appointed, as they stood at the relevant time, had no provision for appointment in the lower semi-skilled category and only after completion of two years probation being given the pay scale in the higher skilled category.

10. In view of the foregoing, the prayer of the applicants is allowed and the respondents are directed to give the applicants the higher pay scales applicable to the skilled category, i.e. Rs.950-1500 from the date of their initial appointment, as has been done in the case of similarly placed employees who were the applicants in earlier OAs (supra). This may be done within three months from the date of receipt of a copy of this order.

(B)

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11. The parties are left to bear their own costs.



SD/-

(N.P.NAWANI)
ADMV. MEMBER

CVR.

SD/-

(A.K.MISRA)
JUDL. MEMBER

प्रमाणित
सत्य प्रतिलिपि
१८/८/१९९९
ग्रनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर व्यायपीठ, जोधपुर

Received 20/5/99

Copy of order
sent to Counsel for
Pet by Regd AD
vidhni 161

20/5/99

20/5/99

Part II and III destroyed
In my presence on 2-7-66
under the supervision of
Section Officer () as per
order dated 16/5/66

Section Officer (Record)