

क.प्र.श. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क शिवि

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR.

O.A.s. Nos. 101, 102
and 103 of 1997

Date of Order: 9.12.1998

(1) Arjun Jadhav s/o Shri Laxman Jadhav, r/o Q.No.55/3, MES Colony, Air Force Area, Jodhpur (presently working as Cable Joiner in the office of the GE (AF), Jodhpur).

..Applicant in O.A.No.101

(2) T.A.Alexander s/o Shri T.P.Augustine, r/o Q.No.55/2, MES Colony, Air Force Area, Jodhpur (presently working as Cable Joiner in the office of the GE(AF), Jodhpur).

..Applicant in O.A.No.102

(3) Purkha Ram s/o Shri Sona Ram, r/o 7, Abhay Garh Scheme, Opposite AF Central School, Ratanada, Jodhpur (presently working as Cable Joiner in the office of the GE (AF), Jodhpur).

..Applicant in O.A.No.103

VERSUS

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

Engineer-in-Chief's Branch, Army Headquarters, Kashmir House, DHQ PO, New Delhi.

Commander Works Engineers (Air Force), Ratanada, Jodhpur.

... Respondents

Mr. S.K. Malik, Counsel for the applicants.

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

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh

Facts of the cases in all these applications are same and relief sought is also the same and as such all these

applications are disposed of by this single order.

2. Applicants' case is that they were promoted to the post of Cable Jointer in the pay scale of 260-400 w.e.f. 23.3.1981, 28.11.1983 and 9.2.1982 respectively and in terms of respondents letter dated 11.5.1983 (Annex: A/1) issued in pursuance of recommendations of the Expert Classification Committee based on the recommendation of the 3rd Pay Commission, the pay of the applicants have been fixed in the scale of Rs.330-480. The contention of the applicants is that in terms of recommendation of the Expert Classification Committee, their pay should have been fixed in the scale of Rs.380-560. The applicants have represented their cases to the respondents in this regard but they have received no reply. Feeling aggrieved, the applicants have approached this Tribunal through the present O.As.

3. Notices were issued to the respondents and they have filed their reply. In their reply, the respondents have contested the applications on the ground of limitation as the applicants are seeking fixation of their pay in the higher scale w.e.f. the year 1981. The learned counsel for the applicants has contended that the grievance of the applicants arose with issuance of the respondents letter dated 30.11.1996 (Annex. A/2) by which the higher scale of Rs.330-480 was given to some of the employees w.e.f. 16.10.1981. The learned counsel for the respondents has cited the judgement in B.S. Bajwa and Another Vs. State of Punjab and Others - 1998 (1) ATJ 544. It is seen from the judgement that the appeal was dismissed because it sought to change the seniority position after a long time, thus we find that the facts in the case cited are distinguishable from the facts of the case in hand.

The learned counsel for the applicants have cited various judgements in support of his contention that the case is not barred by limitation. Without entering into controversy of limitation, we have tried to examine the case on merits.

4. We have heard the learned counsel for the parties and perused the record of the case carefully.

5. For better appreciation of the case, it would be appropriate to go through the various provisions relating to the issue in hand. Relevant provision of the respondents letter dated 11.5.1983 are extracted below:

After carefully consideration of the recommendations of the Expert Classification Committee, appointed in terms of para 19 of Chapter 19 of the report of the Third Pay Commission and of the Committee on Common Category jobs, are directed to convey the sanction of the President to the following:

(i) Fitment of industrial workers in MES in the following five scales of pay as per details sent out in Annexure I:

| <u>Category</u> | <u>Scale</u> |
|-------------------------|---|
| Unskilled | Rs.196-3-220-EB-3-232 |
| Semi-skilled | Rs.210-4-226-EB-4-250-EB-5-290 |
| Skilled | Rs.260-6-290-EB-6-326-8-366-EB-8-390-10-400 |
| Highly skilled Grade-II | Rs.330-8-370-10-400-EB-10-480 |
| Highly skilled Grade-I | Rs.380-12-500-EB-15-560 |

(ii) Upgradation of posts from the Skilled grade/Highly skilled Grade II to Highly Skilled Grade II/I respectively in case of jobs enumerated in Annexure II, in accordance with the following formula:-

| <u>Strength of workers</u> | <u>No. of Posts to bearing Highly Skilled Grade-II/I</u> |
|----------------------------|--|
| 6-15 | 1 |
| 16-25 | 2 |
| 26-35 | 3 |
| 36-45 | 4 |
| 46-55 | 5 |

and so on, i.e. one additional post in Highly Skilled Grade II or Grade I for every 10 posts in the Skilled Grade or Highly Skilled Grade II, as the case may be.

(iii) Introduction of higher grades in jobs outlined in Annexure III.

Note: Staff Strength of higher grades in respect of jobs outlined in Annexure III may be determined by you in accordance with the existing prescribed procedure.

Extract of Annexure-I:

| Job Group Job Title | Pay Scale | | Remarks |
|------------------------|-------------------|------------------|---------|
| | Existing (Rs.) | Revised (Rs.) | |
| Cable Joiner | 260-350 | 330-480 | |

Annexure-III:

List of jobs involving introduction of higher scales in MES.

| | Job Title | Scale to be introduced |
|-------|---------------------|------------------------|
| (i) | Refrigeration Mech. | Rs.330-480 |
| (ii) | Veh. Mechanic | Rs.330-480 |
| (iii) | Cable Joiner | Rs.380-560 |

6. Further clarifications on the subject issued by the respondents vide their letter dated 19.4.1985 (Annex. R/5), relevant portion of which is extracted below:

(3) Introduction of two Higher grades for skilled workers on bench Mark i.e. (65 : 20 : 15)

Skilled Tradesmen with three years service shall be promoted to Highly Skilled Grade-II subject to passing of Trade Test to be laid down for this grade and to Highly Skilled Grade-I after putting in a minimum of three years service in Highly Skilled Grade-II subject to passing of Trade Test for Highly Skilled Grade-I to be laid down for the purpose pending framing of the formal recruitment rules.

(6) Whether any skilled tradesmen elevated to Highly Skilled Grade-I/II are required to be trade tested.

The point is covered under clarification at (3) above.

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7. A perusal of the respondents letter dated 11.5.1983 (Annex. A/1) reveals that the pay scale of the Cable Jointer was revised from Rs.260-350 (Rs.260-400) to Rs.330-480 in terms of the recommendation of the Expert Classification Committee. Annexure-III to this letter dated 11.5.1983 provide a list of jobs involving the introduction of higher scales in MES.

8. The new scales in terms of the respondents letter dated 11.5.1983 (Annex. A/1) were applicable from 16.10.1981.

9. It would be seen from the above that Cable Jointer in the scale of Rs.260-350 (Rs.260-400) were to be fixed in the higher scale of Rs.330-480. It is true that another higher scale of Rs.380-560 was also to be provided in the category of Cable Jointers. This higher scale would be available only to 15% of the employees in the cadre of Cable Jointer. It is not the case of the applicants that they fall within the senior 15% of the employees in the cadre of Cable Jointer. Moreover, in terms of the clarification mentioned above, promotion to the scale of Rs.380-560 requires passing of a Trade Test. It is the admitted fact that the applicants have not passed a Trade Test for promotion to the grade of Rs.380-560. The applicants have also filed a letter dated 30.11.1996 wherein six Switch Board Attendants and Wiremen have been provided the higher scale of Rs.330-480 w.e.f. 16.10.1981 in terms of the respondents letter dated 11.5.1983 (Annex. A/1). It is clear from this letter dated 30.11.1996 that only 10% of the employees in the category of skilled Switch Board Attendants and Wiremen have been provided the higher scale of Rs.330-480. Since it is not the claim of the applicants that they fall within 15% of the total

(Signature)

employees in the cadre of the Cable Jointer, in our opinion they cannot claim the scale of Rs.380-560 w.e.f. 16.10.1981 or the date of their appointment as Cable Jointer because they do not fulfil the eligibility criteria for fitment in the scale of Rs.380-560.

10. In view of the above discussions, we do not find any merit in these applications and these deserve to be dismissed.

11. All the three O.As. are accordingly dismissed with no order as to costs.

Sd/-

(GOPAL SINGH)
MEMBER (ADMN.)

Sd/-

(A.K. MISRA)
MEMBER (JUDL.)

Aviator/

प्रमाणित
सत्य प्रतिलिपि *Landry*
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

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