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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

Original Application No. 41/2003 and  
Misc. Application No. 14/2003 in O.A. 41/03  
Date of Decision : this the 4th day of March, 2004.

*Hon'ble Mr. J.K. Kaushik, Judicial member  
Hon'ble Mr. M.K. Misra, Administrative Member*

1. Sudhir Kumar Behal S/o Sh.Jagat Ram aged 38 years, Electrician S.K., in the office of AGE (Ind) R&D, Defence Laboratory Campus, Jodhpur. R/o 123/1 MES Colony Defence Laboratory Campus, Jodhpur.
2. Sukh Deo Chaudhary S/o Shri Pema Ram aged 37 years, Electrician SK, in the office of AGE (Ind) R&D, Defence Laboratory, Jodhpur R/o 15, Nahar Singh Compound, Ratanada, Jodhpur.
3. Narain Ram S/o Shri Daya Ram aged 52 years, Electrician SK, in the office of AGE (I) R&D, Defence Laboratory, Jodhpur, Vishwarara Nagar, Behind Bhaasia School, Jodhpur.
4. Takhat Singh S/o Shri Khim Singh aged 37 years, Electrician SK, in the office of GE (Army No.2), Jodhpur R/o Village Banar, District Jodhpur.

.....Applicants.

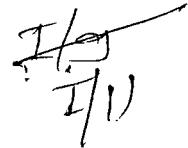
[By Advocate Mr. Vijay Mehta, for applicants]

**versus**

1. Union of India through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (Army), Jodhpur.
3. Engineer in Chief's Branch, Army Head Quarters, New Delhi.
4. Garrison Engineer, Jaipur.

.....Respondents.

[By Advocate Mr. P.R. Patel, for respondents]

ORDER [ORAL]BY J.K. KAUSHIK :

Shri Sudhir Kumar Behal and three others, have filed this application with the prayer that the respondents may be directed to pay them in the pay scale of Rs. 950-1500 and revise the same from time to time since their initial appointment with all consequential benefits.

2. With the consent of the learned counsel for the parties, we have heard the case for final disposal at the stage of admission and have also carefully perused the records of this case.

3. The factual matrix so far relevant to resolve the controversy involved in the instant case are that the applicants were initially appointed to the post of Wiremen, SBA, Lineman and Wireman on 20.8.1987, 28.9.1988, 23.3.1988 and 22.6.1987 respectively. As per offer of appointment, they were given the appointment in the pay scale Rs. 950-1500. Subsequently, the offer of appointment was ordered to be amended vide order at Annex. A/2 dated 28.9.1988 read with order dated 7.10.1989 at Annex. A/1. Similar amendments were also ordered in respect of other applicants and since then, they were given the pay scale of Rs. 810-1150 instead of Rs. 950-1500.



4. Certain similarly situated persons approached this Bench of the Tribunal and prayed for the similar reliefs. The details of such orders have been enunciated in para 4.4 of this O.A. and the identical cases were allowed in favour of the applicants therein. This Original Application has been filed on diverse grounds complaining the violation of service Rules of 1971 as well as on the ground of infraction of Articles 14 and 16 of the Constitution of India. The next ground taken in support of their claim is that artificial distinction and difference in the matter of salary and between those employees who had gone to court and those who did not knock the doors of the court.

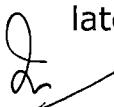
5. The respondents have contested the case and have filed a detailed and exhaustive reply to the Original Application. It has been averred that the post of Wiremen, Linemen and SBA have been re-designated as Electrician as per the clarification dated 24.6.1987. As per the fitment policy, Wiremen, Linemen and SBA were brought at par with the Electrician (Scale Rs. 260-400) and they were removed from the list of feeder grades for promotion to the post of Electrician in the year 1981. It has also been averred that skilled grade was given to those employees who has undergone a job training for a period of two years. Certain other averments have been made and we are refraining from narrating the same since this Bench of the Tribunal has exhaustively dealt with the same in Original Application 206 of 1995 decided on 21.12.1998

*[Signature]*

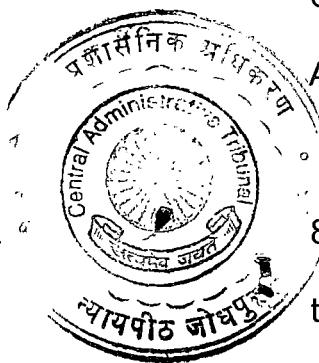
copy placed as Annex.,A/6 and the same has been made as a part of this O.A. The said judgement was appealed against before the Apex Court and the Special Leave Petition came to be dismissed.

6. Both the learned counsel for the parties have reiterated their pleadings. It is seen from Annex. A/2 i.e. letter dated 15.10.1981 that the post of Linemen, SBA and Wiremen, find placed at Sl. Nos. 42, 66 and 72 respectively were revised in the pay scale of Rs. 260-400. Thus, there remains no iota of doubt that the scale for the post held by the applicants was revised as early as in 1981 and they ought to have been placed in the scale of Rs. 260-400/950-1500 from their initial date of appointment itself. Thus, there is ample force in this O.A. as far as merit of the case is concerned.

There has been an objection from the respondents' side and their learned counsel has drawn our attention to Annexs. A/1 and A/2 whereby, the pay scale of the applicants were brought down from Rs. 950-1500 to that of Rs. 800-1150 as early as in 1988 and since then they have been drawing their pay scale in the lower scale without any objection and now, they cannot complain regarding the same after a gap of over fourteen years. We find from the records that a M.A. 14/2003 has also been filed explaining the delay in filing of the O.A. It is no doubt true that the applicants have got up quite late but, the subject matter of the Original Application relates to the



fixation of the pay which gives a continuous cause of action and as per the verdict of the Apex Court in the case of M.R. Gupta Vs. UOI & Ors. reported in AIR 1996 SC 669, such matters gives rise to recurring cause of action and certain restriction can be put on the relief. Article 104 of the Limitation Act also provides that in regard to the matter of wages and salaries etc. claim can be entertained within a period of three years and in this view of the matter, the objection of limitation cannot be sustained and the Miscellaneous Application also stands disposed of accordingly.



8. In view of what has been said and discussed above, we find that there is merit and substance in this O.A. and the same stands allowed in part. The respondents are directed to fix the applicants in the pay scale Rs. 950-1500 from the date of their initial appointment and also revise their pay as per the Recommendations of the V Central Pay Commission. However, there shall be restriction on the financial effects on the arrears which shall be limited to three years prior to the filing of this O.A. This order shall be complied with within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

  
[M.K. Misra]  
Adm. Member

  
[J.K. Kaushik]  
Judl. Member

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