

118

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**Original Application No. 54/2003 &  
Miscellaneous Application No. 29/2003 in OA 54/03  
Date of Decision : this the 20th day of May, 2004.**

Hon'ble Mr. J.K. Kaushik, Judicial member  
Hon'ble Mr. G.R. Patwardhan, Administrative Member

1. Het Ram S/o Shri Dhokal Nath aged 38 years
2. Jagjeet Singh S/o Shri Jogendra Singh aged 36 years
3. Jagtar Singh S/o Shri Laxman Singh aged 37 years
4. Indraj S/o Shri Moti Ram aged 36 years,

All working on the post of Mate at Sriganganagar  
Under the respondent No. 2, R/o Sriganganagar.

(By Mr. Vijay Mehta, Advocate, for applicants)

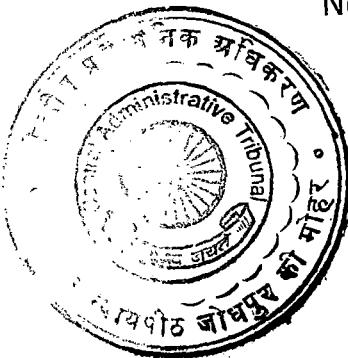
.....Applicants  
versus

1. Union of India through the Secretary,  
Ministry of Defence, Raksha Bhawan,  
New Delhi.
2. Garrison Engineer, MES, Sriganganagar.
3. Chief Engineer, Records Office, Western Command,  
Chandimandir, Punjab.
4. Commander Works Engineer, MES, Sriganganagar.
5. Shri Rajendra Pal, Mate, Office of Garrison Engineer  
MES, Sriganganagar.

[By Mr. S.K. Vyas, Advocate, for respondents 1 to 4]  
None for the private respondent.

.....Respondents

.....  
**ORDER  
[BY J.K. KAUSHIK]**

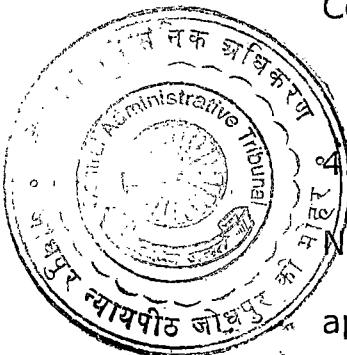


A very short controversy is involved in the instant case.

Shri Het Ram and three others have filed this O.A. for seeking a direction to the official respondents to make fixation of their pay at par with respondent No. 5 from January 1996 at Rs. 2,720/-

with payment of arrears thereof. The case was listed for admission and with the consent of learned counsel for the parties the same has been heard for final disposal at admission stage. We have carefully perused the records of this case.

3. The factual matrix of this case is at a very narrow compass. All the applicants were initially appointed to the post of Mazdoor in the year 1987. They have been subsequently promoted to the post of Mate. These applicants were having the next date of increments from November, June, December and March of the year, respectively. In December 1995 all of them were getting 846/- as basic pay and their pay came to be revised in pursuance with the recommendations of the V Pay Commission and fixed at Rs. 2,660/- w.e.f. 1.1.1996.



The further case of the applicants is that the respondent No. 5 has been junior to the applicants ever since his appointment inasmuch as he came to be appointed in 1988. Incidentally, the date of next increment of the said private respondent happened to be 1<sup>st</sup> January and when the benefits of revised pay fixation were extended, the respondent No. 5 happened to get fixation at the higher pedestal inasmuch as he was fixed at Rs. 2,770/- from the month of January 1996 itself. The learned counsel for the applicants has drawn our attention to an order dated 21.11.2001 passed in O.A. No. 231/2000 **Vinod Singh Vs. UOI & Ors.** and has submitted that the controversy involved in the instant case, is squarely covered on all fours by the said decision.

13  
10

5. On the other hand, the learned counsel for the respondents has endeavored to controvert the submissions made on behalf of the learned counsel for the applicants. He has submitted that the case of the applicants is distinguishable on facts from the one the applicants are relying. However, on a specific query it was submitted by the learned counsel for respondents that as far as the factual aspect of the matter is concerned, there is absolutely no quarrel.

6. As regards the Misc. Application for condonation of delay the main ground for condoning the delay is that the applicant came to know regarding the benefits granted to the similarly situated persons in the month of November 2001 and thereafter proceeded to submit their application. We find that the subject matter of this OA relates to the pay fixation which gives rise to continuous cause of action and the law of limitation is not attracted in such cases as such. However, certain restriction is required to be put on the relief as per the verdict of the Hon'ble the Supreme Court in the case of **M.R. Gupta Vs. Union of India and Ors.** reported in AIR 1996 SC 669. We also find that a normal restriction is to be put for one year prior to filing of the case but, as per Article 104 of the Limitation Act, the period regarding the wages or salary is three years and we shall take care of the same while granting the relief. Thus, the M.A. for condonation of the delay stands disposed of accordingly.

DR

7. We have considered the rival submissions raised on behalf of the parties. We have also gone through the judgement at Annex.A/3 in the similar matter. The judgement is passed on a specific Circular dated 28.7.1998 wherein there is a specific provision under para 4-f regarding the advancement of next increment in such cases and the same is extracted as under :-

"Advancement of date of next increment of senior Govt. servant is admissible only if he was drawing more pay than the junior Govt. servant in the pre-revised scale and his pay in the revised scale is fixed at the same stage as that of his junior."

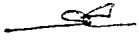
The authority which is being relied upon by the learned counsel for the applicant is also based on the circular which even the respondents themselves have placed on record as Annex. R/2. However, we can only assert at this juncture that if we were to examine the matter independent of the authority cited above, we would have reach to the same conclusion . In this view of the matter, we have absolutely no hesitation in following the decision relied upon by the learned counsel for the applicant in **Vinod Singh's** case (supra). We also refrain from having fresh discussions since the very judgement is part of the pleadings and we have decided to adopt the same.

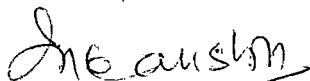


8. In the premises, the O.A. has ample force and the same stands allowed. The applicants are entitled to advancement of their next increment from 1.4.1996 with reference to their junior i.e. respondent No. 5. Accordingly, the official respondents are directed to extend the benefit of advancement of increment to

1.4.1996 to all the applicants with all consequential benefits but the monetary effect shall be restricted to three year prior to the date of filing of this OA. This order shall be complied with within a period of three months from the date of its communication.

No costs.

  
[G.R.Patwardhan]  
Administrative Member

  
[J.K.Kaushik]  
Judl.Member

Jrm



9/92

Re  
26.5 m