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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 291/2002

And

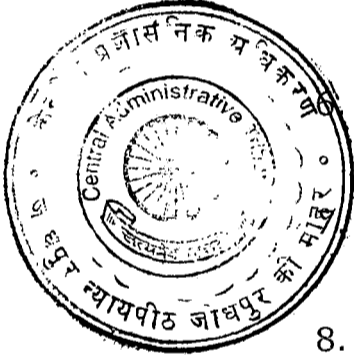
Misc. App. No. 65/2003

Date of decision : this the 6th day of October, 2003.

.....

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

1. Zahoor Mohammad S/o Jamal Khan, aged 46 Years, Fitter Pipe.
2. Mehta Ram S/o Luna Ram, aged 51 years, Fitter Pipe.
3. Gorui Shanker S/o Bakshi Ram, aged 52 years, Fitter Pipe.
4. Jeevraj S/o Nizam Khan, aged 50 years, Fitter Pipe.
5. Shekhu Khan S/o Sadu Khan, aged 49 years, Fitter Pipe
- Udai Singh S/o Jawahar Singh, aged 41 years, Valveman.
- Deep Singh S/o Sanwal Singh, aged 51 years. Valveman.
8. Kabira Ram S/o Bharu Ram, aged 50 years, Valveman
9. Hari Chand S/o Naina Ram, aged 47 years, Valveman
10. Kishor Singh S/o Uttam Singh, aged 48 years, Valveman
11. Tej Singh S/o Bhanwar Singh, aged 44 years, Valveman
12. Nakhat Mal S/o Roopa Ram, aged 47 years, Valveman
13. Mubarak Khan s/o Chhotu Khan, aged 47 years, Valveman
14. Abdul Rehman S/o Raidan Khan, aged 44 years, Valveman
15. Sultan Khan S/o Nagodar Khan aged 51 years, Fitter Pipe
16. Ujbeer Singh S/o Shahejade Singh, aged 50 years,



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Fitter Pipe

17. Harish Chandra Lowani S/o Badri Das, aged 54 years, Fitter Pipe.

Applicant Nos. 1 to 14, posted at Pokaran, District Jaisalmer. Applicant Nos. 1 to 14, posted at Pokaran, District Jaisalmer. Applicant Nos. 15 to 17 posted at Jaisalmer. All applicants working under the Garrison Engineer (Army) MES Jaisalmer. Address of applicants C/o Sultan Khan, Dibbapada, Jaisalmer.

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

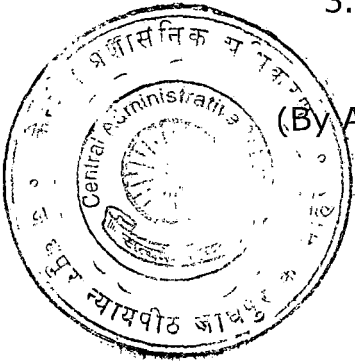
.....Applicants.

VERSUS

1. Union of India through Secretary to The Government Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (Army) Jodhpur.
3. Engineer in Chief, Army Headquarters, New Delhi.

(By Advocate Mr. S.K. Vyas, for the respondents)

.....Respondents



ORDER

Per J. K. Kaushik, Judicial Membr :

1. Shri Zahoor Mohammad, and 16 others have filed this Original Application for seeking the following relief:-

"That in view of the facts and grounds mentioned herein above the applicants pray that the respondents be directed to pay the applicants salary in pay scale of 250-400, as revised to 900-1500 and as further revised from time to time from the date their intial appointment and consequently to revise his fixation with all consequential benefits. Any other relief, deemed fit by this Hon'ble Tribunal may also be granted to the applicants. Costs may also be awarded to the applicants."

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2. We have heard the learned counsels with their consent for disposing of this application at the stage of admission and have very carefully perused the pleadings and the records of the case.

3. The indubitable facts of the case as culled from the pleadings of the parties are that all the applicants ^{were} appointed on the post of valve man on various dates during the year 1973 to 1988 as indicated in para 4.2 of the Original Application. Most of them continue to hold the same. Some of them are holding the post of Fitter Pipe as indicated in the cause title. They were/are being paid in the pay scale of Rs. 210-290 revised to 800-1150 meant for the post of semi-skilled post. The post of Valveman to which they were actually appointed was the skilled post and they also performed the duties of the skilled post. The skilled post of the valve man was in fact in the pay scale of Rs. 250-400 which was revised later to Rs. 950-1500. The appointment was required to be regulated by the Military Engineering (Industrial Class III and IV posts), Recruitment Rules 1970. There was no provision for appointment in semi-skilled grade as per the said rules. Despite this, a Memorandum was issued on 11.1.85 and skilled post was given semi-skilled grade.

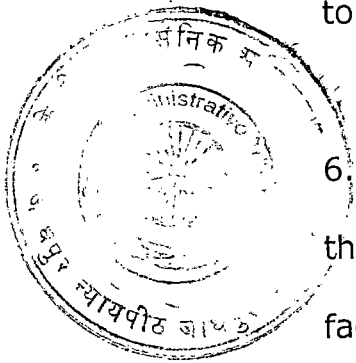


4. Number of similarly situated persons holding the post of Valveman went into litigation before this very Bench of the Tribunal and filed Original Applications which came to be allowed. But the relief was given only in respect of the

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employees who went into litigation. The respondents filed writ petition and SLP before Hon'ble Rajasthan High Court and Hon'ble the Supreme Court and experienced dismal failure and finally were compelled to extend the due benefits.

5. Now coming to the variances, in the reply the respondents have averred that the Original Application has been filed after a long delay and the same deserves to be dismissed on the ground of delay and laches. Secondly, the applicants had accepted the pay scale of Rs. 210-290 through out and asking the revised pay at this stage is not just and proper. Further, the applicants were never recruited as skilled workman, only their pay was upgraded from unskilled to the semi-skilled grade and there is no question of their working on the skilled post. Thus, they are not entitled to the relief claimed by them.



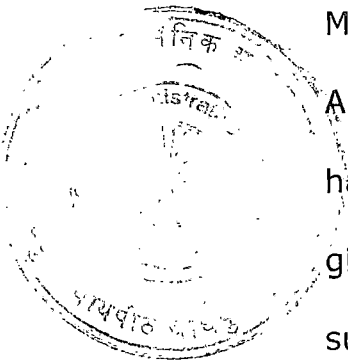
6. The learned counsel for both the parties have reiterated their pleadings. There is hardly any quarrel in regards to the facts of this case. It has been submitted that the rules position regulating the pay scale in respect of the very post of Valveman have already been dealt with in the cases of Jaswant Ram and others (OA No. 395/1996) and Gepa Ram and others (OA No. 258/2001) decided by this very Bench of the Tribunal on 13th of September, 1999 and 21st of March, 2002. The learned counsel for the applicants has urged that the earlier judgements have attained finality and the applicants are entitled for the same relief and they can not be denied the same benefits only on the

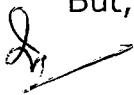


ground of unreasonable classification of one litigating and other not-litigating.

7. We have perused the same and have no doubt that the controversy involved in the instant case is squarely covered on all fours and the issue does not remain res integra. We have no hesitation in following the aforesaid decision in the present case. We, therefore, do not find any necessity of repeating the discussion made therein. Thus, in our considered opinion, the applicants are entitled for getting their pay fixation in the pay scale meant for skilled category i.e. Rs. 250-400 revised to 950-1500, from the initial date of their appointments, itself.

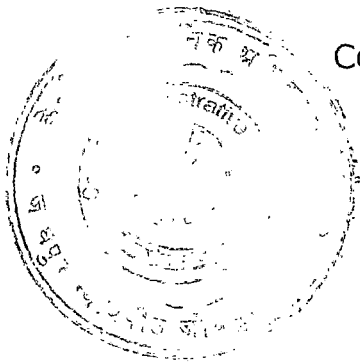
8. However, we can not ignore the objection of limitation and delay and laches in filing of the instant Original Application. A Misc Application for condonation of delay in filing of Original Application has also been filed. Simultaneously, the applicants have indicated that the matter relates to fixation of pay which gives rise to recurring cause of action. We are in agreement and subscribe to the contentions and submissions on this point that law of limitation is not attracted in such cases. The law is well settled for such cases and their Lordships of Supreme court in case of M. R. Gupta Vs. Union of India AIR 1996 SC 669 have held that the matter relating pay fixation gives rise to recurring cause of action and the law of limitation does not apply in such case. However, the relief is regarding payment of arrears is required to be restricted to one year before filing of the case. But, in the present case, the matter relates to payment of wages





and Article 102 of Limitation Act provides a period of three years. ^{Thus} the actual relief shall have to be restricted accordingly.

9. The upshot of the aforesaid discussion is that the Original Application deserves to be allowed and stands allowed. The respondents are directed to grant pay scale of Rs. 950-1500 to the applicants from their initial date of appointment as Valve man on notional basis. They shall be entitled to all consequential benefits but the actual arrears shall be payable only for a period three years prior to the date of filing of this Original Application. This order shall be complied with within a period of three months from the date of receipt of a copy this order. Misc. Application No. 65/2003 also stands disposed of. Costs made easy.



[Signature]

(G.R.Patwardan)
Adm. Member

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(J. K. Kaushik)
Judl. Member

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