

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

* * *

Date of Decision: 18.10.2002

OA 51/2002

Tulsa Ram, Om Prakash, Vishnu Dutt, Sumer Singh, Manoj Adgar Alexzender, Anil Kumar Rajput, Laxmi Narain Hatila, Arun Kumar Sharma, Gajendra Kumar Gujrati, all working under Garrison Engineer (S) Army, Bikaner, on the post of Valvemen; Dinesh Kumar Jain, Vijay Kumar Sharma, Moris Samson & Shaukat Ali, all working as Valvemen under Garrison Engineer, Air Force Nal, Bikaner.

... Applicants

Versus

1. Union of India through Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commandar Works Engineer (P), Bikaner.
3. Engineer in Cheif, Army HQ, New Delhi.
4. Commandar Works Engineer, Air Force, Bikaner.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

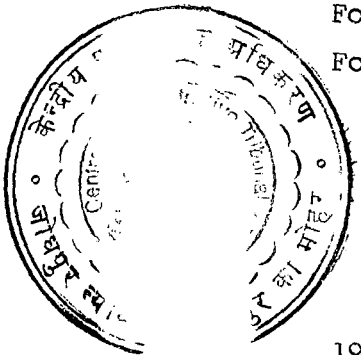
HON'BLE MR.GOPAL SINGH, ADM.MEMBER

For the Applicant

... Mr.Vijay Mehta

For the Respondents

... Mr.S.K.Vyas



ORDER

PER MR.GOPAL SINGH

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicants (13 in number) working on the post of Valveman in the office of GE(S) Army, Bikaner, and GE Air Force Nal, Bikaner, have prayed for a direction to the respondents to pay salary to the applicants in the pay scale of skilled grade from the date of their promotion to the post of Valveman and consequently to revise the pay fixation with all consequential benefits.

2. Applicants' case is that after due selection they were appointed on the skilled post of Valveman during the year 1982 to 1988 but they are being paid salary in the pay scale of unskilled post. The representation made by the applicants for grant of pay scale of Rs.950-1500, applicable to skilled post, has been rejected by the respondent department, vide their letter dated 14.12.2001 (Ann-A/1) and 17.1.2002 (Ann-A/2). Contention of the applicants is that the respondent department has granted skilled pay scale of Rs.950-1500 to the similarly situated persons as per the direction of the Central Administrative Tribunal and,

Gopal Singh

therefore, rejecting the claim of the applicants for the same, is not tenable. Hence this application.

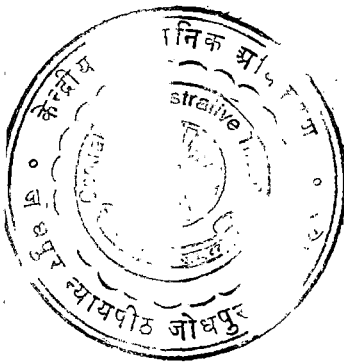
3. Notices were issued to the respondents and they have denied the case of the applicants. It is averred by the respondents that the applicants are entitled for semi-skilled grade as per the provisions contained in the Ministry of Defence letter dated 16.10.1981 and letter dated 24.1.1987. It has, therefore, been submitted by the respondents that the application is devoid of any merit and is liable to be dismissed. The learned counsel for the respondents has brought to our notice order dated 11.4.2002 passed in OA 206/2001 in support of his contention.

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

5. The controversy in hand has been examined in detail by this Tribunal in OA 79/1992, OA 206/1995 and OA 324/1995 and the contention of the applicants for fixation of their salary in the scale of Rs.950-1500 from the date of their appointment has been upheld. We would not like to repeat the reasons recorded in OAs 79/92, 206/95 and 324/95 for upholding the contentions of the applicants herein. Suffice it to say that modification sought in the Recruitment Rules vide Government of India Orders dated 15.10.84 and 11.1.85 were incorporated in the Recruitment Rules only in 1991 whereas the applicants were promoted to the respective posts during the year 1987 and 1988. As such, the modifications suggested in the Government Orders dated 15.10.84 and 11.1.85 would not apply to the applicants.

6. The learned counsel for the respondents has relied upon the judgement of this Tribunal dated 11.4.2002, passed in OA 206/2001, to stress the point that the applicants are entitled to the scale of Rs.800-1150 relevant to the unskilled post on their appointment as Valveman. We have carefully gone through this order. It is pointed out that the applicants' therein were appointed as Valveman in the semi-skilled category in the year 1996 under the Recruitment Rules of the year 1991, therefore, they are not entitled to any benefit of the skilled grade. In the earlier orders passed in OAs 79/92, 206/95 & 324/95, this Tribunal had extended the benefit of the pay scale of Rs.950-1500 to the applicants of those OAs because they were appointed as such prior to introduction of the Recruitment Rules of 1991 holding that the Recruitment Rules of 1991 would not be made applicable to them retrospectively. Thus, the contention of the respondents that the case of the applicants

Copy of

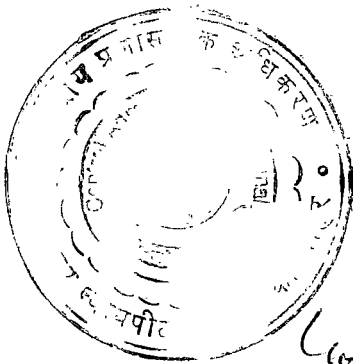


is covered by order dated 11.4.2002, passed in OA 206/2001, is not tenable.

7. The learned counsel for the applicants also brought to our notice that a writ petition was filed against one of the judgements of this Tribunal in OA 206/95 - Mahendra Kumar & Others v. Union of India & Ors. (supra). Hon'ble the High Court has upheld the same vide judgement and order dated 16.3.2000 in D.B.(Civil) Writ Petition No.1391/99. Against the said judgement of Hon'ble the Rajasthan High Court, a Special Leave Petition No.3948/2000 was filed before Hon'ble the Supreme Court and the same has been dismissed vide order dated 24.9.2001. Thus, the judgement of this Tribunal is an identical case has attained finality.

8. In the light of above discussions, we are firmly of the view that the OA deserves to be allowed in respect of all applicants who were appointed as Valveman prior to introduction of the Recruitment Rules of the year 1991. Accordingly, we pass the order as under :

"The OA is allowed. The respondents are directed to grant pay scale of Rs.260-400/950-1500 to the applicants from their initial date of appointment as Valveman, within a period of three months from the date of receipt of a copy of this order. No order as to costs."



(GOPAL SINGH)
MEMBER (A)



(G.L.GUPTA)
VICE CHAIRMAN