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**Central Administrative Tribunal
Jodhpur Bench**

Date of Decision: 12.07.2005

CORAM

Hon'ble Mr. J.K. Kaushik, Judicial Member.

Hon'ble Mr. G.R. Patwardhan, Administrative Member.

Original Application No. 223/2004 and MA No. 107/2004

Poonam Chand s/o Shri Suraj Mal, aged about 53 years, Valve Man in the office of Garrison Engineer Air Force, Nal Bikaner r/o Tyagi Vatika near Jail Kua, Bikaner.

Original Application No. 225/2004 and MA No. 108/2004

Om Prakash s/o Shri Chaina Ram, aged about 36 years, Valve Man in the office of Garrison Engineer Air Force, Nal Bikaner r/o T-14/43, MES Colony Nal Bikaner.

Applicants



[By Mr. Vijay Mehta, counsel for applicant]

VERSUS.

1. Union of India through the Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (Air Force) Bikaner.

.....Respondents.

[By Mr. Vinit Mathur counsel for the respondents]

ORDER

Per Mr. J.K.KAUSHIK, JUDICIAL MEMBER

Shri Poonam Chand and Shri Om Prakash have filed their individual Original Applications No. 223/2004 and 225/2004 under Section 19 of the Administrative Tribunals Act, 1985. The

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same involve common facts and a common question of law, hence we are deciding these OAs through a common order.

2. The facts of these cases as may be succinctly put in are that Shri Poonam Chand, applicant in OA No. 223/2004, came to be appointed as Mazdoor in the year 1970. He was promoted to the post of Valve man on dated 17.1.1970 after passing the requisite test in the skilled category in scale of Rs. 210-290 revised to 800-1150. Shri Om Prakash, applicant in OA No. 225/2004 was initially appointed to the post of Valve Man in the pay scale of Rs. 800-1150, vide order-dated 19.2.1988. Both of them continue to be employed on the post of Valve Man in the office of Garrison Engineer (AF) at Nal, Bikaner.



3. They were/are being paid in the pay scale of Rs. 210-290 revised to Rs. 800-1150 meant for the post of semi-skilled post. The post of Valve man was in skilled category on which the applicants performed the duties. 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 and the new recruitment rules prescribing appointment as semi skilled person came to be issued only in the year 1991. Despite this, a

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Memorandum was issued on 11.1.85 whereby the skilled post was given semi-skilled grade.

4. Number of similarly situated persons appointed or promoted to the post of Valve man went into litigation before this very Bench of the Tribunal and filed Original Applications, which came to be allowed. The due relief was given by the respondents only in respect of the employees who went into litigation. The respondents filed writ petition and SLP before Hon'ble Rajasthan High Court and Hon'ble the Supreme Court, respectively and experienced dismal failure and finally were compelled to extend the due benefits.



5. Both the learned counsel have reiterated the facts and grounds enumerated in the respective pleadings of the parties. The learned counsel for the applicant has made us to traverse to various decisions of this bench at Annexure A/1 and A/2 wherein the identical issue was said to be involved. Our attention was also drawn to another decision of Hon'ble Rajasthan High Court at Jodhpur in case of **Union of India & ors V. Krishan Gopal DBCWP No. 3606/2003** decided on 11.8.2003, wherein there Lordships have upheld the order of this Bench of Tribunal and the SLP(C) No. 11753 filed thereof before Apex Court was also dismissed.

6. The applicants have also filed Miscellaneous Application Nos. 107/2004 and 108/2004, respectively, requesting therein for

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condonation of delay in filing the above O.As. on the ground that similarly circumstanced employees have already been allowed the due benefits since they went into litigation and orders were passed in their favour. Some of the orders were upheld by the Rajasthan High Court at Jodhpur as well as the SLP was dismissed by the Apex Court.

7. We have considered the rival submissions put forth by both the learned counsel for the parties. There^{is a} hardly any dispute relating to the factual aspect of the matter. We have waded the numerous decisions produced before us wherein the similar controversy came to be adjudicated upon. However, we would refer to a very exhaustive and instructive decision passed by this bench of the tribunal on dated 19.1.2004 in Original Application No. 290/2002 Deena Ram and ors v. Union of India and ors wherein both of us were party to the order. The identical issue has been extensively dealt with including the preliminary objection regarding the limitation and we no reason to take a different view in the matter. Therefore, we have no hesitation to apply the said decision to the controversy involved in the instant case and decide the same on similar line. A copy of it is being placed on the records of this case and the discussion made therein would form a part of this order. In this view of the matter, we do not find any necessity for fresh discussion of debates.



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8. In the result, the O.A. Nos. 223 and 225 of 2004 are hereby is allowed and respondent- department is directed to fix the pay of the applicants in the pay scale of Rs. 250-400/950-1500, as the case may, from their respective date of promotion/appointment as a Valve man on notional basis, with all the consequential benefits. However, the arrears on account of this fixation shall be payable only for a period from three years prior to the date of filing of this O.A., i.e. with effect from 13.9.2001; date of filing of OA being 13.9.2004. This order shall be complied with within a period of three months from the date of receipt of a certified copy of the same. Misc. Application Nos. 107 and 108/2004 also stand disposed of. Costs made easy.




(G.R. Patwardhan)
Administrative Member


(J.K. Kaushik)
Judicial Member