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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No. 148/2004
and
Misc. Application No. 60/04**

Date of Decision: this the 7th day of October, 2004.

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

1. Amritpal Singh son of Shri Bishan Singh, aged 40 years, Pipe fitter Basti Ram son of Shri Kalu Ram, aged 54 years, Pipe Fitter.
2. Mangi Lal son of Shri Sugna Ram, aged 45 years, Valve man.
3. Moti Singh son of Shri Bhoor Singh, aged 44 years, Valve man.
4. Sant Lal Thakral son of Shri Ram Kishan, aged 47 years, FGM.
5. H.S. Thappa son of Shri Tulsi Ram, aged 53 years, FGM.
6. Kishan Ram son of Shri Hazari Ram, FGM.

Applicant Nos. 1,3, to 7 working under the Garrison Engineer (South) Bikaner, Applicant No. 2 working under Garrison Engineer (North), Bikaner, r/o care of Shri Amritpal Singh, Gurudwara, Rani Bazar, Bikaner.

.....Applicants.

[By Mr. Vijay Mehta, Counsel for applicants]

V E R S U S

1. Union of India through the Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works engineer (P) Bikaner.
3. Head Quarters Chief Engineer, Chandimandir.
4. Garrison Engineer (South) Bikaner.
5. Garrison Engineer (North) Bikaner.

.....Respondents.

[By Mr. Kuldeep Mathur, Counsel for the respondents]

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ORDER
[BY M.K.MISRA,ADMINISTRATIVE MEMBER]

Shri Amrit Pal Singh and six others filed this Original Application (O.A. No. 148/2004) on 1st June, 2004, under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

"That in view of the facts and grounds mentioned hereinabove the applicants pray that the respondents be directed to pay the applicant salary in pay scale of Rs.250-400 as revised to Rs.900-1500 and as further revised from time to time from the date of their initial appointment and promotion to the post of Valveman and consequently to revise their 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. The applicants have also filed Miscellaneous Application (M.A. No. 60/2004) on 1st June, 2004 requesting therein for condonation of delay in filing the above O.A. on the ground that all the applicants, who were placed under the similar circumstances with the similar set of facts, as that of the applicants in O.A. No. 395/96 and O.A No. 51/2002 concluded on 13th September 1999 and 18th October, 2002 when the Writ Petition filed by the respondents against the above orders of this Tribunal in the Rajasthan High Court, the same was dismissed by their Lordships and in one of the cases of the similarly situated applicant, a Special Leave Petition was dismissed by Hon'ble the Supreme Court of India.

3. Briefly, the facts of the case are that the applicants Nos. 1, 3 to 5 and 7 were initially appointed on the post of Valveman vide order dated 20.8.87, 29.5.82, 14.6.82, 31.7.71 and June 77, respectively in the pay scale of Rs. 210-290, revised as 800-1150. Applicants No. 2 and 6 were initially on the post of Mazdoor on dated 19.10.79 and 8.5.80, respectively. And subsequently promoted Valveman in the pay scale of Rs. 210-290. At present, the applicants No. 1 & 2 are employed as pipe fitter, applicants No. 5 to 7 are as FGS and rest of the applicants as valveman. The contention of the applicants is that the post of Valveman is a skilled post and not a semi skilled post. At the time of promotion, the pay scale of skilled post was Rs. 250-400 which was later on revised to Rs. 950-1500 whereas, the grade of semi skilled post at that time was Rs. 210-290 which was later on revised to Rs. 800-1150. It was further contended that recruitment of the applicants was governed by the Military Engineering (Industrial Class III and IV posts) Recruitment Rules, 1970. These Rules do not provide for semi skilled post. Despite the absence of any rule, the respondent No. 1 issued a O.M. dated 11th January, 1985 making the provision that the employees recruited on skilled post, shall be given semi skilled grade for first two years and only after completion of two years they will be given skilled grade. The applicants further mentioned that many Valvemen working under the respondent No. 1 and respondent No. 4 got the decision in their favour vide order dated 13th September, 1999 passed in O.A. 395/1996 and order dated 21st March, 2002 passed in O.A. No. 258/2001,



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directing the respondents to fix them in the pay scale of Rs. 950-1500 i.e. the pay scale of skilled category. It has, further, been contended by the applicants that the order of this Tribunal got finality when the Hon'ble Rajasthan High Court dismissed the Writ Petition filed against the order of this Tribunal and in one of the cases Hon'ble the Supreme Court of India dismissed the Special Leave Petition filed by the respondents.

4. The respondents in their reply submitted that the post of Valveman is of semi skilled nature, therefore, applicants herein, are not entitled for the grade of skilled post i.e. Rs. 950-1500. They also submitted that since the instant Original Application has been filed beyond the period of limitation prescribed under Section 21 of the Administrative Tribunals Act,1985, it deserves dismissal.

5. We have heard the learned counsel and with their consent we are disposing of this application at the stage of admission and have very carefully perused the pleadings and the records of the case. We notice and take judicial notice of a recent decision of this very Bench of the Tribunal in Original Application No. 42/2003 **Dau Dayal vs. Union of India and others** decided on 9th day of March, 2004, where both of us were party to the decision, wherein the similar controversy was involved and settled. The issue does not therefore remain res integra and we have no reason to take a different view and rather have no hesitation in following the same and deciding the same on

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similar lines. The extract of relevant paras of the same are extracted as under:-

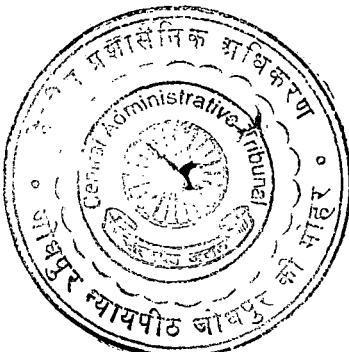
"6. Number of similarly situated persons appointed initially to the post of Valveman went into litigation before this very Bench of the Tribunal and filed O.As which came to be allowed. But, the relief was given by the respondents only in respect of the employees who went into litigation. The respondents filed Writ Petition and SLP before Hon'ble the Rajasthan High Court and Hon'ble the Supreme Court and experienced dismal failure and finally, were compelled to extend the due benefits.

7. Now, coming to variances, in reply, the respondents have averred that the grade/scale of Valveman was never upgraded from Rs. 210-290 to 250-400 as per the expert committee and anomalies committee reports. An O.A. No. 504/2001 was filed by the MES Employees Union before the Bombay Bench of this Tribunal and the same has been dismissed vide order dated 27th February, 2002 in view of the stay granted by the Hon'ble Supreme Court against a judgement passed by Hon'ble the J. & K. High Court in favour of the employees in a similar matter.

8. The learned counsel for respondents Shri P.R. Patel, has next contended that SLP has also been filed in the case of this Bench in Gopa Ram and Ors. Vs. UOI & Ors. [O.A.No.258/2001 decided on 21.3.2002] which was upheld by Hon'ble the Rajasthan High Court, Jodhpur and the same is pending decision. Thus, the instant case should also be dismissed as has been done by Bombay Bench.

9. The learned counsel for both the parties have reiterated their pleadings. In the instant case, almost all the facts are admitted. The rules position regulating the pay scale of Valvemen have already been dealt with in Jaswant Ram and Ors. [O.A. 395/1996 decided on 13.9.1999], Gopal Ram and Ors. [O.A. 258/2001 decided on 21.3.2002], Zahoor Mohammed and Ors. [O.A. 291/2002 decided on 6.10.2003] and in Deena Ram and Ors. [O.A. 290/2002 decided on 19.1.2004]. A zerox copy of the decisions delivered in Zahoor Mohammed's and Deena Ram's case be placed on paper book of this O.A. The contents of para 6 of Gopa Ram's case are relevant and are extracted as under :-

"6. Learned counsel for the respondents has vehemently opposed this case in as much as an order dated 01.10.2000 in S.L.P. (Civil) No. 19483/99, passed by the Hon'ble the Supreme Court of India has been relied upon in support of his contention. It was averred that in a similar matter filed before the Hon'ble Supreme Court UOI & Others Vs. Amarnath & ors. the stay has been granted. However, no further details could be made available to this Hon'ble Tribunal and also no controversy has been finally settled in that case. On the other hand, learned counsel for the applicants has drawn our attention to certain subsequent developments/events in the matter. It was informed that a writ petition was filed against one of judgement of this Hon'ble Tribunal in O.A.



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No. 206/95, Mahendra Kumar & Ors. vs. UOI & others (supra). Hon'ble the High Court has upheld the same vide judgement and order dated 16.03.2000 in D.B. (Civil) Writ Petition No. 1391/99. Against the said judgement of Hon'ble the Rajasthan High Court an S.L.P. No. 3948/2000 was filed before the Hon'ble Supreme Court and the same has been dismissed vide order dated 24.09.2001, a copy of the same has been filed and taken on record. Thus, the judgement of this Tribunal in identical case has attained the finality. Undisputedly, the applicants were promoted in skilled category post for which pay has been fixed as Rs. 260-400/950-1500. Thus, Annex. R-1, which has been heavily relied upon by the learned counsel for the respondents has no application to the present controversy. Thus this Original Application deserves to be accepted."

10. The learned counsel for the applicant has thus argued that the earlier orders rendered by this Tribunal have attained finality hence, applicant in the instant case is also entitled for the same relief and as such, he cannot be denied the same benefits only on the ground of an unreasonable classification of one litigating and other not litigating.
11. We find that the controversy involved in the instant case is squarely covered by the orders given in Jaswant Ram and Gopa Ram's case (supra) which have been upheld by the Rajasthan High Court and the issue does not remain res integra.
12. Apart from above, we cannot ignore the objection raised during arguments by the learned counsel for the department on the issue of limitation. The respondents have not filed any reply to M.A. for condonation of delay. However, since the matter relates to fixation which gives rise to recurring cause of action, therefore, we are in agreement to the contentions of Mr. Mehta that this law does not come in the way of applicant in such matters. In M.R. Gupta Vs. UOI [reported in AIR 1996 SC 669] their Lordships of Hon'ble the Supreme Court have held that in pay fixation matters, limitation does not apply at all, however, the payment of arrears on that account, is required to be restricted to one year before filing of the case. But, as the present case relates to payment of wages and Article 104 of the Limitation Act provides a period of 'three years', therefore, the relief of arrears shall have to be restricted accordingly."

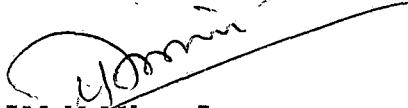


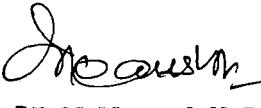
6. In the result, the O.A. is allowed and respondent-department is directed to fix the pay of the applicants in the pay scale of Rs. 950-1500 from their initial date of appointment as a Valveman on notional basis, with all the consequential benefits.

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However, the arrears on account of fixation shall be payable only for a period 'three years prior to the date of filing of this O.A., i.e. with effect from 1.6.2001; date of filing of OA being 1.6.2004.

7. 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 No. 60/2004 also stands disposed of. Costs made easy.


[M.K. Misra]
Administrative Member


[J.K. Kaushik]
Judicial Member

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