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CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 149/2004

DATE OF ORDER: 25.08.2005

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

HON'BLE MR. G.R. PATWARDHAN, ADMINISTRATIVE MEMBER

1. Rupa Ram S/o Shri Achlu Ram ji Aged about 61 years B/c Meghwal R/o House No.11 Kaga Scheme, Near Bada Kabad Khana Outside Nagori Gate, Jodhpur. Retired as : Washer-up, 32 Wing A/F, C/o 56 APO.
2. Prabhu Ram S/o Shri Jagdev ji, Aged about 65 years B/c Nayak, R/o Pabupura Civil Air Force Road, Jodhpur. Retired as : Waiter, 32 Wing A/F, C/o 56 APO.
3. Ganesh S/o Shri Dhanna Ram ji, Aged about 65 years, B/c Nayak, R/o House No.1, Indira Colony, Air Force Road, near Panch Bati, Jodhpur. Retired as : Waiter, 32 Wing A/F, C/o 56 APO.
4. Joga Ram S/o Shri Ishwar Lal ji, Aged about 62 Years, B/c Nayak, R/o Pabupura Civil Air Force Road, Jodhpur. Retired as : Mess-Waiter, 10 Squadron, A/F, C/o 56 APO.
5. Devi Lal S/o Gopi Ram ji, Aged about 60 years, B/c Harijan, R/o House No.51 Roadways Workshop Colony, Via Saya Road, Jodhpur. Retired as : Lascr, 32 Wing A/F, C/o 56 APO.
6. Surja Ram S/o Shri Ranchod Ramji, Aged about 62 years, B/c Sargara, R/o House No.9 Indira Colony, Airport Road, Jodhpur. Retired as : Mess-Waiter, 32 Wing A/F, C/o 56 APO,
7. Hari Singh S/o Shri Raj Singh ji, Aged about 63 years, B/c Rajput, R/o Kabir Nagar, Near New Masjid, Sursagar Road, Jodhpur. Retired as : Washer-up, 32 Wing A/F, C/o 56 APO, .



...Applicants.

Mr. M. Rajpurohit, Counsel for applicants.

VERSUS

1. Union of India through The Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The C.G.D.A., R.K. Puram, New Delhi.
3. The C.D.A., (Tech.), A/F, Dehradun.
4. The A.O.C. in Chief, Headquarter S.W.A.C., I, A/F Gandhinagar, Gujarat.
5. The A.O.C. Air Force Station, Ratanada, Jodhpur.
6. The L.O.C. A/F, Jodhpur.
7. The O.C., 10th Sqn. A/F C/o 56 A.P.O.

...Respondents.

Mr. M. Prajapat, proxy counsel for
Mr. Ravi Bhansali, counsel for the respondents.

ORDER

Per Mr. J K Kaushik JM

Shri Rupa Ram and 6 others have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, wherein the following prayer have made:



"(a) That the present application may kindly be allowed and accepted with costs.

(b) That by an appropriate writ, order or directions the respondent authorities may kindly be directed to give similar payment and pension benefits and other consequential benefits to the present applicants, as were/are provided to employees of same grade in same department.

(c) That the respondent authorities may kindly be directed to produce service-record of present applicants along with Ram Singh (Water Carrier 222 Sqn. A.F.) Kamruddin (Mess Waiter 2218 Sqn. A.F.) and Madanlal (Mess Waiter 33 S.Y. A.F.), for deciding the present case on merits and as per departmental rules/regulations."

2. We have heard learned counsel for the both the parties in piecemeal but very extensively on various occasions including today and have carefully perused the records and pleadings of this case. Certain additional details were called for from the respondents and they have been fair enough to make them available.

3. The factual matrix of this case depicts that the applicants have held the grade 'D' post during the period indicated at page 3 of the paper book. All of them retired from service while holding the post of grade 'D'. The case of the applicants is for claiming the pay as was being paid to the other counter parts. The applicants took up the matter with the respondents through their individual representations but their grievances were not redressed, and hence they were compelled to file this Original Application. They have annexed their respective P.P.Os. as well as given certain details regarding the payments which were made to them at the time of their retirement.

4. The respondents along with their reply have filed an appendix at 'C' whereby they have narrated and given the complete details of the payments which were being made to the applicants from time to time. When the case was last argued there were some prima-facie mistakes in the scales and the representative of the respondents was called in the matter. The matter was again probed into and it



was informed that there are certain subsequent developments in the matter inasmuch as there has been merger of the two pay scales and also revision in the pay scales consequent upon the recommendations of Vth Pay Commission including the benefits of ACP scheme. The respondents were directed to give effect to all those orders and place on records an up-to-date comparative chart giving detailed analysis of the pay fixations in respect of all the applicants and also some of the persons with whom comparison has been sought to be made.

5. Today the learned counsel for the applicants has made very detailed submission and pointed out that there are number of infirmities and irregularities in the said chart. On the other hand, the learned counsel for the respondents with the aid of the departmental representative has been in a position to meet out all the objections. The major objection was regarding one of the applicants Shri Devi Lal with that of Shri Ram Singh wherein it was said that they have given the pay scale of Rs. 800-1150 but such scale does not exist after the merger of pay scale of Rs. 775-1025 and 800-1125 into the scale of Rs. 775-1150. It was also contended that the order of merger came to be issued in the year 1997 wherein they are said to be promoted in 1991 in the pay scale of Rs. 800-1150 and how the said order could protect their scale. It has also submitted that all the applicants and other persons were required to place as on 01.01.1996 in scale S-2-A i.e. Rs. 2610-4000 and placing Shri Devi Lal and Shri Ram Singh in the higher pay scale of Rs. 2650-4000 is not understood.

6. We have considered the rival submissions made on behalf of both

the parties and also carried out the close analysis of the pay chart which is said to be proposed and fixed. It is perhaps said so to be proposed to be fixed because in view of the fact that certain orders of the Government were not implemented and that is the reason that the respondents had to file the revised comparative statement of pay. We find that as far as the grant of pay scale to two persons, in the pay scale of Rs.800-1150, is concerned, the same is in order since their pay is protected as per the provisions envisaged by the very order; may be that the same came to be passed in 1997 and the same order prescribes for merger of the scale. If the merger is to take place from a retrospective date why not the protection clause also. We are not impressed with the submissions of the learned counsel for the applicants that on one part of the order shall have retrospective effect and other part of the order shall be prospective. This contention does not appeal to the reason and does not have our concurrence.



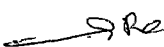
7. The learned counsel for the respondents has already demonstrated to the satisfaction of this Court that after merger every one who ever was in the scale of Rs. 775-1150 has been granted the scale of S-2-A i.e. Rs. 2610-4000 only and the case of Shri Devi Lal and Shri Ram Singh cannot be compared with them since they are holding higher post in the pay scale of Rs. 800-1150 which was duly protected. In this view of the matter, we are of considered opinion that the respondents have now reconciled the matter and proposed fixation of pay is quite in order. As regards the implementation part of such fixation we shall be giving reasonable time to the respondents.


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8. Before parting with this case, we are little sad to point out our anguish that the respondents have been keeping the various orders in their files without any action and made incorrect as well as misleading averments in the reply. They became wiser and active only when the fault was pointed out by this bench of the tribunal. The exercise, which the respondents have carried out after our pointing out, ought to have been done at the initial stage i.e. at least at the time of filing the reply to Original Application. The respondents dealt with the case of applicants in a casual, cursory and negligent manner by taking this court for granted. They cannot be permitted to play with the fundamental rights of their employees, especially that of the group D and that too retired employees. We hope and trust that the respondents shall be careful in future so as to avoid any unpleasant situation.



9. In the premises, we dispose of this Original Application with a direction to the respondents that the respondents shall give effect to the comparative statement of pay, proposed to be revised as annexed to the additional documents. The applicants shall be entitled to all consequential benefits including revision of pensionary benefit along with due arrears, within a period of three months from the date of receipt of a copy of this order. The other reliefs stand declined. No costs.


(G R Patwardhan)
Administrative Member

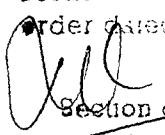

(J K Kaushik)
Judicial Member

Kumawat

~~for R. Brunsell~~
on 11/9/05
Copy Recd

Copy received
on 11/9/05
from (Hunt)
(Hunt)

Part II and III destroyed
in my presence on 12/1/14
under the supervision of
section officer (1) as per
order dated 10/12/13


Section officer (Record)
12/1/14