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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

**Original Application Nos.118/2005
& Misc.Application No. 56/2005**

Date of decision: 13.07.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

Bannu Ram,s/o Shri Ram Lal aged 40 years Plumber, HS in the Office of Garrison Engineer (Army 1) Jodhpur R/O Nehru Colony, Ratanada, JODHPUR.

: applicant.

Rep. By Mr. Vijay Mehta : Counsel for the applicant.

VERSUS



1. Union of India through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi. Commander Works Engineer (Army) MES, Jodhpur.

: Respondents.

Rep. By Mr. B.R. Mehta: Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

The applicant has filed this O.A with the prayer that the respondents be directed to pay him in the pay scale of Rs. 950-1500 and revise the same from time to time since the date of his initial appointment with all consequential benefits.

2. The facts in brief are that the applicant was initially appointed to the post of Plumber in the pay scale of Rs. 950-1500 vide order dated 22.06.87. After some time his pay was reduced without any notice and opportunity to the ~~the~~ semi skilled grade scale of pay of Rs. 800-1150. The post of plumber is a skilled post

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and the scale of pay of the skilled post is Rs. 950-1500. It is alleged by the applicant that certain person like the applicant though given appointment on skilled posts were given the semi skilled pay of Rs. 800-1150. Some of them have approached this Bench of the Tribunal and obtained orders in their favour. The applicant prays that similar order may be passed in his case.

3. The respondents have contested the case by filing a reply. The respondents have raised a preliminary objection that the O.A is time barred since the applicant is claiming the relief from 1987 and therefore the O.A deserved to be dismissed on this ground alone. With regard to the merits of the case, the respondents have submitted that the applicant was allowed the pay scale of Rs. 800-1150(semi skilled) for a period of two years and thereafter he was allowed the pay scale of Skilled grade. Certain facts have not been disputed by the respondents.

4. We have heard the learned counsel for both sides and perused the records and pleadings carefully. It is not in dispute that similar cases, the numbers of which have been given in para 4.5 and 4.6 of the instant O.A, were allowed by this Bench of the Tribunal and the applicants therein were given the benefit as prayed for. First of all we would like to address the preliminary objection raised by the respondents. The matter relates to fixation of pay which gives a continuous cause of action and as per the verdict of the Apex Court in the case of **M.R. Gupta vs. UOI and ors.** [AIR 1996 SC 669] such matters gives rise to the recurring cause of action and certain restriction can be put on the relief.



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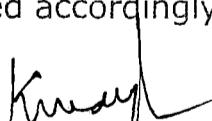
Article 104 of the Limitation Act provides that in regard to the matter of wages and salaries etc. claim can be entertained and the arrears thereof could be restricted to period of three years. Therefore the preliminary objection of the respondents cannot be sustained.

5. In view of what has been said discussed above, the O.A is allowed in part. The respondents are directed to fix the pay of the applicant in the pay scale of Rs. 950-1500 from the date of his initial appointment and also revise his pay as per the recommendations of the 5th Central Pay Commission. However, the financial effects on arrears shall be limited to three years prior to the date of filing of this O.A. The notional fixation of the pay is to be done from the date of his initial appointment and the arrears be paid from 21.04.2002 (the date of filing of this O.A being 20.04.2005). The O.A is ordered in the above terms. No costs.

6. In view of the decision of the Apex Court in the case of M.R. Gupta vs. UOI and ors. [AIR 1996 SC 669] that such matters gives rise to the recurring cause of action, we hold that there is no delay in filing this O.A. M.A.No. 56/2005 ordered accordingly.


Tarsem Lal
(Tarsem Lal)
Administrative Member

Jsv


(Kuldip Singh)
Vice Chairman.

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