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CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH

O.A.No.47 of 2006 and
M.A.NO.32 OF 2006

7th February, 2007

CORAM :

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN (JUDICIAL)
HON'BLE MR.R R BHANDARI, ADMINISTRATIVE MEMBER.

1. Moola Ram S/o Shri Vishna Ram, aged about 37 years, by caste Jat, presently working as Valveman under Garrison Engineer, Air Force, Suratgarh.
2. Jagdishj Chandra S/o Shri Mani Ram, aged about 43 years, by caste Kumhar, presently working as Valveman at Garrison Engineer, Suratgarh.
3. Ratan Singh S/o Shri Hari Ram, aged about 39 years, by caste Jat, presently working as Valveman at Garrison Engineer, Suratgarh.

Applicants

By : Mr. Manoj Bhandari, Advocate.

Versus

1. The Union of India through - The Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Commander Works Engineer (P), Bikaner.
3. The Engineer-in-Chief, Army Headquarter, DHQ (PO), New Delhi.
4. The Chief Engineer, Headquarter, Western Command, Engineering Branch, Chandimandir, District Chandigarh.
5. The Garrison Engineer, Air Force, District Suratgarh.

By : Mr. Vinit Mathur, Advocate, with Mr. M.Godara, Advocate.

ORDER
(HON'BLE MR.KULDIP SINGH, VC)

The facts as projected by the applicants are that they were initially appointed as Mazdoor on various dates under the Garrison Engineer, Suratgarh, as given in Schedule-A. All of them qualified trade test for promotion to the post of Valveman on 5th August, 1991 (Annexure A-2). They were promoted as Valveman w.e.f. 30.11.1991, 16.12.1995 and 16.12.1995 respectively. They were placed in the pay scale of Rs.800-1150, instead of pay scale of Rs.950-1500, revised to

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Rs.3050-4000, despite the fact that such higher pay scale has been granted to similarly situated persons. Their representation for grant of higher pay scale has evoked no positive response. Thus, they have filed this O.A. for issuance of direction to the respondents to place them in the proper pay scale of Rs.950-1500, as revised to Rs.3050-4590 from the date of their initial appointment as Valveman.

The respondents have opposed the O.A. by filing a detailed reply. They submit that the O.A. is barred by time as the applicants never approached the Court in time and as such they cannot be treated at par with those, who were vigilant towards their rights and approached the court of law for their grievance and were granted relief. Since they kept silent, they have accepted their fate. Since the applicants are in semi-skilled category, they have rightly been placed in the scale of Rs.800-1150 inasmuch as the post of Valveman was never a skilled category and this position is evident from the Recruitment Rules, as amended in 1991.

We have heard the learned counsel for the parties and have gone through the pleadings.

The applicants have filed an M.A.No.32 of 2006 for condonation of delay in filing the O.A. The respondents have filed a reply to this M.A. opposing the prayer for condonation of delay. However, finding that since the fixation of pay is a recurring cause of action and as such law of limitation would not be attracted in this case, in view of the verdict of the Hon'ble Supreme Court in the case of **M.R. Gupta Vs. Union of India & Others**, AIR 1996 SC, Page 559. In any case, the claim of applicants for actual benefits can be restricted. Thus, the M.A. for condonation of delay stands disposed of accordingly.

In the unamended recruitment rules, the pay scale for the post of Skilled Category i.e. Valveman was Rs.950-1500. The rules came to be amended only in 1991 and were made effective from September, 1991.

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Thus, the controversy is in a very narrow compass regarding entitlement of pay scale to two category of incumbents, firstly whose appointment is governed under old rules and second category whose appointment is governed under the amended rules.

The issue as raised in this O.A. stands settled by this Tribunal in a number of cases, including in O.A.No.88 of 2005 titled **Nand Lal & others Vs. Union of India & Others**, decided on 15.11.2006 in which one of us (Hon'ble Mr. R.R. Bhandari, AM) was a Member. The Bench has held in unequivocal terms that date of trade test is crucial to ascertain as to under which recruitment rules one is to be appointed to a particular post. It has been further held that if one was trade tested under the old rules, his promotion from a subsequent date would not make any difference and the revised rules would not be an obstruction in grant of due scale of pay to such appointee / promotee. Undisputedly, in this case the applicants were trade tested and they qualified the test on 5.8.1991, i.e. much prior to coming into force of amended recruitment rules from September, 1991, and as such they are entitled to be placed in the pay scale of Rs.950-1500 from the date of their appointment as Valveman.

Thus, this O.A. is allowed. The respondents are directed to fix the pay of the applicants in the pay scale of Rs.950-1500, from their date of promotion / appointment as Valveman on notional basis, with all consequential benefits. However, they shall be entitled to arrears only for a period of three years prior to the date of filing of this O.A. i.e. from 22.2.2003 onwards, the date of filing being 22.2.2006. These directions may be complied with within a period of three months from the date of receipt of copy of this order. No costs.


(R R BHANDARI)
Administrative Member


(KULDIP SINGH)
Vice Chairman

HC*

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(FOR MR. MANOJ BHANDARI)

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