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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

**O.A. NO. 298/2010
WITH MA.NO.166/2010**

Dated this the 10th day of July, 2012

CORAM

**Hon'ble Dr. K.B.S. Rajan, Judicial Member
Hon'ble Mr B.K.Sinha, Administrative Member**

1. Girish Chander S/o Shri Ram Krishan
R/O H.No.P.178/04, MES Colony, Sriganganagar.(Raj)
2. Ramdev Morya S/o Shri Ram Adhar Morya,
R/o VPO Edul Pur Hazara, Dist. Pratapgarh (UP).
3. Ram Prasad S/o Shri Shambhu Ram,
R/o Ward No.27, Purani Abadi, Sriganganagar(Raj).
4. Jetha Ram S/o Shri Nathu Ram, R/o H.No.56,
Murari Colony, Birtiliyawala, Sriganganagar.
5. Ram Shankar S/o Shri Nathi Lal
R/o H.No.196, Labour colony, Near Towar,
Sriganganagar (Raj).
6. Kharga Ram S/o Shri Chunni Lal,
R/o H.No.06, Gali No.03, Shiv Colony,
Sriganganagar (Raj.)
7. Magha Ram S/o Shri Kana Ram
R/o Village 3 ML, PO 2 ML, Nathawala,
Sriganganagar (Raj).
8. Ramji Lal S/o Shri Mala Ram,
R/o VPO Mirzawala, Dist.Sriganganagar(Raj).
9. Inder Kumar S/o Shri Keshav Dutt
R/o H.No.74, Vinoba Basti, Sriganganagar,(Raj.)
10. Bhagwan Singh S/o Shri Gaguni Ram,
R/o Qr.No.167/01, MES Colony, Sriganganagar(Raj.)
11. Manwer Singh S/o Shri Jhabber Singh
R/o Qtr No.175/07, MES Colony, Sriganganagar (Raj).

(All are working under the Respondent No.3 on the post of FGM).

(By Advocate Mr. S.P.Sharma)

Vs.

1. Union of India, through Secretary to Govt. of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sriganganagar (Rajasthan).
3. Garrison Engineer, MES, Sriganganagar(Rajasthan). ...Respondents
(By Advocate Mr. Kuldeep Mathur)

O R D E R

Per: Dr. K.B.S.Rajan, Judicial Member

1. The applicants were initially appointed as Mate under the respondents, which was an industrial post. The scale attached to the said post was Rs 196 – 232. The said pay scale got revised under successive Pay Commission Recommendations. All the applicants are governed by the MES (Industrial Class III and Class IV Posts) Recruitment Rules, 1971, which also carries a relaxation clause.
2. The applicants were thereafter, promoted to the post of DES/PHO/FGM/Electrician, which were all rechristened and known as FGM. (Annexure A-1 gives the details of all the applicants).
3. A policy decision was taken in 1981, dividing the artisan category into five – (a) unskilled, (b) semi skilled, © Skilled, (d) Highly Skilled Grade II and (e) Highly Skilled Grade I. Later on at the time of the Vth CPC, the posts of Highly Skilled Grade II and I were merged and thus, it was a four grade structure.
4. When identical qualification requirements and other eligibility conditions were prescribed for various posts, the Respondents had suo

motu or under Courts orders, extended the benefit of skilled category to various persons, to the exclusion of the applicants. Annexure A-3 order dated 24-03-1987 refers. In fact, certain other categories such as Cane Weaver, Valve Man etc., approached the Tribunal for extension of the aforesaid upward revision of pay scale and despite the same, the higher pay scales were not extended to the applicants. Representation thus followed.

5. OA 804 of 1998 of the Principal Bench was filed by certain individuals similarly situated as the applicants and the same was allowed and when the decision was taken up before the Hon'ble High Court, the Hon'ble High Court had endorsed its stamp of approval to the order of the Tribunal vide judgment in CWP © No. 1054 of 2001 decided on 15-07-2002. The decision attained finality as the case was not taken up with the Apex Court.

6. Yet another OA No. 1018 of 2003 was filed on a similar fashion and the said OA was also allowed. So was the decision in OA No. 40 of 2006.

7. OA No. 13 of 2007 was filed by some of the cane weavers and the same had also been allowed, vide Annexure A-6 order dated 15-02-2009.

8. The attempt of Valvemen etc., before the Tribunal ended fruitful result. The scale of pay of those who had approached the Tribunal had been revised to Rs 260 - 400/950 - 1500 from their initial date of appointment as Valvemen if the appointment had been anterior to the coming into existence of the Revised Recruitment Rules. Order dated 12-09-2002 in OA No. 2/2002 at Annexure A-5

refers.

9. In the above backdrops, all the applicants have moved this OA seeking the following relief(s):

- (i) That the join application may kindly be allowed.
- (ii) That in view of the facts and circumstances and the grounds narrated above the applicants prays that the respondents may be directed to extend the benefit of pay scale of Rs. 260-400 to the applicants w.e.f of their initial date of appointment and thereafter all the applicants may be allowed the benefit of corresponding/upgrading pay scales as per recommendations of Pay Commission.
- (iii) That the respondents may further be directed to fix the pay of the applicants in the pay scale of skilled grade from the initial date of joining and thereafter revised the pay of the applicants by revision of the pay fixation with all consequential benefits and cost may also allowed to the applicants.
- (iv) Any other relief which this Hon'ble Tribunal deems just and proper in favour of the applicants may be passed.

10. Respondents have contested the O.A. The objection raised was that the applicants were appointed as Mazdoors, a lower grade, while others were appointed as, say, Valveman, etc. They have contended that the applicants were afforded the above higher post and since there was no comparability between the unskilled and semi skilled, they are not given the benefits. Preliminary objection as to the suppression of facts etc, have also been raised by the respondents.

11. At the time of hearing, the counsel for the applicants submitted that the applicants have been singled out and others have been granted the benefit of higher pay. In fact, this fact has not been rebutted by the counsel for the respondents, who had stated that in various other cases, the matter went up to the highest court. He has therefore, submitted that taking judicial notice of his submission, an

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identical order could be passed.

12. Arguments were heard and documents perused. The fact others have got the higher benefits not being denied, the applicants herein should be, as stated in the case of **Amrit Lal Berry vs CCE (1975) 4 SCC 714**, able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of the declaration of the Court without the need to take their grievance to the Court.

13. The V Central Pay Commission in its recommendation, in regard to extension of benefit of court judgment to similarly situated, held as under:-

“126.5 – Extending judicial decisions in matters of a general nature to all similarly placed employees. - We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others v. UOI & others (O.A. Nos. 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh v. UOI, [(1992) 19 ATC 94 (SC)], dated 20-7-1998; K.I. Shepherd v. UOI [(JT 1987 (3) SC 600)]; Abid Hussain v. UOI [(JT 1987 (1) SC 147], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”

14. In a latter case of **Uttaranchal Forest Rangers' Assn.**

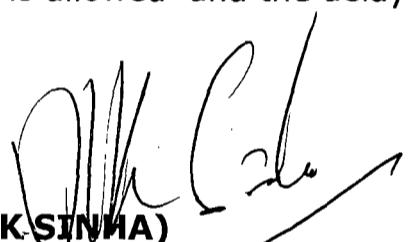
(Direct Recruit) v. State of U.P., (2006) 10 SCC 346, , the Apex Court has referred to the decision in the case of State of Karnataka vs C Lalitha (2006) 2 SCC 747 as under:

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.

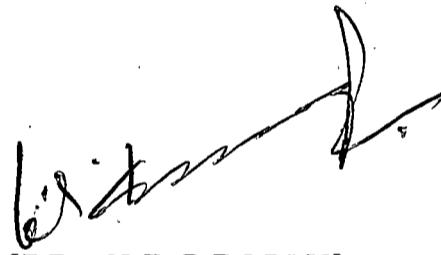
15. In view of the fact that the cases under consideration have all been admittedly identical to the earlier cases decided, we are of the considered opinion that the applicants should also be brought within the very same group which is enjoying the higher pay scale.

16. The OA is therefore, allowed.

17. On the basis of the merits of the case, a liberal view has been taken. MA is allowed and the delay condoned.


(B K SINHA)
ADMINISTRATIVE MEMBER

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(DR. K B S RAJAN)
JUDICIAL MEMBER

Received.

S. S. S.

17/07/2012

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for - K. Meen
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