के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निः शुल्क प्रति

# CENTRAL ADMINISTRATIVE TRIBUNAL
# JODHPUR BENCH

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O. A.No. 317/2012 with MA No. 160/2012
O. A.No. 318/2012 with MA No. 161/2012
O. A.No. 04/2013
O. A.No. 61/2013 with MA No. 32/2013
O. A.No. 62/2013 with MA No. 33/2013
O. A.No. 63/2013 with MA No. 34/2013
O. A.No. 64/2013 with MA No.36/2013
O. A.No. 65/2013 with MA No. 37/2013
O. A.No. 70/2013 with MA No. 41/2013
O. A.No. 71/2013 with MA No. 42/2013
O. A.No. 73/2013
O. A.No. 74/2013 with MA No. 43/2013
O. A.No. 85/2013 with MA No. 45/2013
O. A.No. 86/2013 with MA No. 46/2013
OA No. 95/2013 with MA No. 49/2013 **AND**
O. A.No. 423/2012 with MA No. 203/2012

Jodhpur, this the 29th April, 2013.

CORAM :

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J)**
**Hon'ble Ms. Meenakshi Hooja, Member (A)**

Rajendra Kumar S/o Shri Champa Lal aged 55 years, Valveman in the Office of I/C, Out Station, MES (Army), Mount Abu, District Sirohi, R/o Opposite Rajendra Hotel, Rajendra Marg, Mount Abu, District Sirohi.

Applicant in OA No. 317/2012.

Vs.

1. Union of India through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Army, Multan Line, Jodhpur.
3. I/C Out Station, MES (Army), JE B&R, Mount Abu, District Sirohi.

Respondents.

Prahlad Das S/o Shri Babu Lal, aged 56 Years, Valveman, In the Office of I/C, Out Station, MES, (Army), Mount Abu, District Sirohi; Resident of Gora Chhapra, Mount Abu, District Sirohi

Applicant in OA No. 318/2012.

Vs.

1. Union of India through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Army, Multan Line, Jodhpur.
3. I/C Out Station, MES (Army), JE B&R, Mount Abu, District Sirohi.

Respondents.

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Sukha Ram S/o Shri Ganpat Ram, aged 49 Years, Valveman, in the Office of Garrison Engineer, Air Force, Jaisalmer R/o Katchi Basti, Police Line, Jaisalmer

Applicant in OA No. 04/2013.

Vs.

1. Union of India through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES (Air Force), Jodhpur.
3. Garrison Engineer, MES (Air Force), Jaisalmer.

Respondents.

Pradeep Kumar Manglani S/o Shri Sewa Ram Manglani, aged 51 years, Valveman in the office of Garrison Engineer, Air Force, Jodhpur R/o 4 K 11, Behind Shopping Centre 5, Pratap Nagar, Jodhpur

Applicant in OA No. 61/2013.

Vs.

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

Respondents.

Dev Kishan S/o Shri Kalyanji, aged 51 Years, Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/io G 18, Civil Airport Road, Pabupura Jodhpur

Applicant in OA No. 62/2013.

Vs.

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

Respondents.

Om Prakash S/o Shri Chhoga Ram, aged 54 Years, Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/o 10/81 Madhuban Housing Board Colony, Basani, Jodhpur

Applicant in OA No. 63/2013.

Vs.

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

Respondents.

Ratan Lal S/o Shri Moola Ram, aged 54 Years, Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/o Civil Air Port Road, Pabupura, Jodhpur

Applicant in OA No. 64//2013.

Vs.

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

3. Garrison Engineer, MES (Air Force), Jodhpur.

Respondents.

Panchi S/o Shri Phefa Ram aged 59 Years, Valveman in the Office of Garrison Engineer, Air Force, Jodhpur R/o Behind Sharda Park, Indira Colony, Air Force, Jodhpur

Applicant in OA No. 65/2013.

Vs.

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

Respondents.

Ram Lal S/o Shri Sanker Lal, aged 57 Years, Pipe Fitter in the office of Garrison Engineer, Air Force, Jodhpur R/o Ram Nagar, Rawati Road, Near Chungi Naka, Soorsagar, Jodhpur

Applicant in OA No. 70/2013.

Vs.

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

Respondents.

Sohan Lal S/o Shri Ram Lal, aged 58 Years, Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/o Plot No. 132, Jawahar Colony, Near Sardar Club Jodhpur

Applicant in OA No. 71/2013.

Vs.

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

Respondents.

Padma Ram S/o Shri Sona Ram, aged 62 Years, retired Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/o K 74, Opposite Gayatri Mandir, Devi Road, Chanana Bhakar, Jodhpur

Applicant in OA No. 73/2013.

Vs.

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

Respondents.

Kaptan Singh S/o Shri Jagdish Singh, aged 51 Years, Valve Man in he Office Of Garrison Engineer, Air Force, Jodhpur R/o Plot No. 5, Veer Durga Das Colony, Jodhpur

Applicant in OA No. 74/2013.

Vs.

I/K

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

Respondents.

Ahmed S/o Shri Gul Mohmmad, aged 65 years, retired Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/o 3-B/21 Kudi Bhagtasani Housing Board, Jodhpur

Applicant in OA No. 85/2013.

Vs.

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

Respondents.

Leela Ram S/o Shri Devi Dan, aged 58 Years, Pipe Fitter in the Office of Garrison Engineer, Air Force, Jodhpur R/O 5 D/183 Kudi Bhagtasani, Jodhpur

Applicant in OA No. 86/2013.

Vs.

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

Respondents.

1. Mahipal Singh s/o Shri Amar Singh, aged about 52 Years, R/O Quarter No. 164/3, Mes Key Personal Quarter, Sadhuwali Cantt Sriganganagar, (Raj),
2. Jagdish Rai Swami s/O Sh. Gopi Ram aged About 48 Years, R/o Ward No. 10, Near Govt. School No 9, Purani Abadi, Sriganganagar, (Raj),
3. Vijai Kumar S/o Shri Joginder Pal aged about 48 Years, R/o House No 23, Gali No 1, Shiv Colony, SSB Road, Sriganganagar Rajasthan.
4. Om Prakash S/o Shri Hari Chand aged about 49 Years, R/o 91, 3rd Block, Old Abadi, Sriganganagar, (Raj,),

(All the applicants are presently working on the post of Pipe Fitter in the office of Garrisson Engineer, Sriganganagar)

Applicants in OA No. 95/2013.

Vs.

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, Western Command, Chandi Mandir.
3. The Commander Works Engineer, Sri Ganganagar, Rajasthan.
4. The Garrison Engineer, Sri Ganganagar.

Respondents.

1. Laxmi Devi Widow of Shri Mohan Lal aged 50 Years.
2. Kishan Lal S/o Shri Mohan Lal, aged 17 years, Minor, through her legal guardian – His Mother Laxmi Devi, Applicant No. 1.
3. Kalu Ram S/o Shri Mohan Lal, Aged 21 Years,

All applicants are residents of Near Railway Colony, Pokran, District Jaisalmer.

Applicants in OA No. 423/2012.

Vs.

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

Respondents.

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M. Vijay Mehta, Advocate, for applicants except in OA No. 95/2013.
Mr. S.K. Malik, Advocate for applicants in OA No. 95/2013.

Mr.D.S. Sodha proxy for Mr. Kuldeep Mathur, Advocate, for respondents except in OA Nos. 04/2013, 95/2013 with MA 49/2013 & 423/2012 with MA 203/12.
Ms. K. Praveen, Advocate, for respondents through Memo of Appearance.

## ORDER(Oral)
## [PER K.C.JOSHI, JUDICIAL MEMBER]

All these 16 Applications contain similar controversy to be adjudicated by this Tribunal and as the facts and the relief prayed for by the applicants are common therefore, all are being disposed of by this common order.

**OA NO. 317/2012**

2. In OA No. 317/2012 it has been averred by the applicant Shri Rajendra Kumar that he was appointed on the post of Valveman on 9.1.1980 but, was paid salary in Semi-skilled pay scale of Rs. 210-4-290 though he should have been paid salary in pay scale of Rs. 260-400 as revised from time to time. He has therefore sought the relief to direct the respondents to pay him salary in the pay scale of Rs. 260-400 /900-

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1500 and as further revised from time to time from the date of his appointment on the post of Valveman and consequently revise his fixation with all consequential benefits.

**OA NO. 318/2012**

3. In this OA it has been averred by the applicant Shri Prahlad Das that he was promoted on the post of Valveman in 1988 but was paid salary in semi skilled pay scale and he has also prayed for the same reliefs as above.

**OA NO. 04/2013**

4. In this O.A., the applicant Sukha Ram has averred that he was promoted as Valveman but was paid salary in Semi-skilled pay scale and has, therefore, prayed for the same reliefs as above.

**OA NO. 61/2013 to OA No. 65/2013, OA No.70/2013, OA No. 71/2013, OA No. 74/2013, OA No. 86/2013 AND 95/2013.**

5. The applicants of these OAs have also prayed for the same reliefs and further to direct the respondents to pay them salary in the pay scale of Rs. 260-400/950-1500/3050-4500 as has been prayed in the similar OAs.

6. The applicants Mahipal Singh and three others have filed a joint OA for the reason that they have come against the same reliefs, therefore, they are allowed to join in one O.A.

**OA NO. 73/2013 & OA No. 85/2013.**

7. The applicant Padma Ram and Ahmed, in addition to the aforesaid reliefs have prayed that since they have been retired, they may be first fixed in the pay scale of Rs. 260-400 / 950-1500 / 3050 - 4500 and further as revised from time to time from the date of their promotion to the post of Valveman and consequently to revise their pay fixation with all consequential benefits; and after such refixation, also refix the pension, gratuity and other retrial benefits. The applicant of OA NO. 73/2013 has further prayed that the order Annex.A/1 which says that suo moto benefits on the basis of a judgment in a particular case, cannot be granted to him, be also quashed.

**OA NO. 423/2012**

8. The LRs of Mohan Lal, since deceased, have prayed for filing one single application on their behalf, which is allowed. The widow of late Shri Mohan Lal has prayed that respondents may be directed to recalculate the salary of her husband in the pay scale of Rs. 260-400 / 900-1500 (RPS) from the date of his promotion to the post of Valveman and revise his fixation and family pension with all consequential benefits.

9. It is noted that in OA No. 423/2012 with MA No. 203/2012, respondents have filed their reply, but in rest of the other cases reply is still awaited. Since the controversy involved in all the OAs is common, therefore, in other matters right to file reply is closed and the matters were heard on the basis of the reply filed in OA No. 423/2012.

10. It has been brought to our notice that several similarly situated incumbents have challenged the same issue by filing different Original Applications before this Bench of the Tribunal and the Tribunal, in ***Zahoor Mohammed Vs. Union of India and Ors.*** (OA No. 291/2012) which was decided on the basis of ***Gepa Ram and Ors. Vs. Union of India and Ors.*** (OA No. 258/2001), directed the respondents that the applicants should be fixed in the pay scale of Rs. 950-1500 from the date of their initial appointment with all consequential benefits. Hon'ble the Supreme Court also dismissed the appeal [S.L.P. No. 1475/2004 filed by the ***Union of India and Anr. Vs. Gepa Ram Valveman & Ors.]*** vide its order dated 16th June, 2011, therefore, Mr. Vijay Mehta, counsel for applicants, prays that in view of the pronouncement by the Apex Court in ***Gepa Ram's*** (supra) case, the instant OAs be allowed with costs.

11. It is gathered from the facts that the recruitment of the applicants are governed by the Military Engineering (Industrial Class III & IV Posts) Recruitment Rules, 1971 and after promotion, they had been discharging the duties of a skilled post, whereas, they were being paid the pay scale of semi skilled.

12. The respondents were required to suo moto extend the similar benefits to all other Valvemen in view of the order of this Tribunal passed in OA No. 170/2002 on 9.12.2002 which the respondents challenged before the Rajasthan High Court and the Hon'ble Supreme Court and the same was rejected.

13. The learned counsel for respondents primarily opposed the applications on the ground of delay and prayed that the OAs be dismissed as the applicants have approached this Tribunal beyond the prescribed period of limitation under the Act. However, in view of the decisions of this Tribunal on the issue which have been maintained up to the level of Apex Court, it appears that it was the duty of the respondents to grant such benefits at the thresh-hold to these applicants too, automatically in view of the verdict given on the issue, and only due to abandon precaution, these MAs have been moved. The learned counsel for applicants has vehemently argued on the point of limitation and we are convinced of the same based on the grounds raised in the respective M.As particularly when the matter does not res integra after the preposition of Hon'ble Supreme Court rendered in 2011 itself. In AIR 1996 SC 669 – ***M.R. Gupta Vs. Union of India and Others*** has held "where employee's grievance was that his fixation of initial pay was not in accordance with the Rules, the assertion being of continuing wrong the question of limitation would not arise. Accordingly, the MAs No. 160, 161/2012, 32/2013, 33/2013, 34/2013, 36/2013 37/2013, 41/2013, 42/2013 43/2013, 45/2013, 46/2013, 203/2012 and 49/2013 are, therefore, accepted and delay in filing these applications is condoned.

14. The respondents have pleaded in their reply that the applicants were granted financial upgradations at the appropriate time as per rules. As regards the claim to the post of Valvemen, it is

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contended that the Recruitment Rules of Valvemen are yet to be revised by the Government of India and no promotion in the category of Valvemen has been made so far by the respondent department and as and when the Recruitment Rules are finalized, the case of the instant applicants will also be considered. The applicants were promoted to the post of Valvemen from the post of Chowkidar and Mazdoor respectively and as per Recruitment Rules of 1971, the post of Valvemen was a class IV industrial post and they have rightly been granted the pay scale because they were never recruited in the skilled-category, as claimed. It has been argued by the counsel for respondent – department that the respondents have already sought clarification / instructions for making payment to the applicants equal to the similarly situated persons wherein, the applicants were not party but, the same is still awaited.

15. We have heard the learned counsel representing both the parties and perused the records. It appears that the controversy involved in this matter has already been set at rest and no further scrutiny is required in view of the decision in ***Gepa Ram's*** case.

16. It appears that similarly situated persons, who were Skilled Trades Electrician, F.G.M., Plumber etc. have been granted promotion to the post of Highly Skilled and M.C.M. whereas, the applicants have not been granted any promotion although they are working on the post from 1983 and 1995 respectively. The contention of the counsel for the respondents that the Rules are under consideration, is no ground to

deprive the applicants for unlimited period from the same promotion which they have provided to the similarly situated other persons. In the absence of any Rules, the Department can promote them even on ad hoc basis or by way of other means but, by simply saying that framing of Rules is under consideration, is no ground to deprive them from getting their legitimate pay.

17. In view of the facts discussed above, the above OAs are allowed and the order at Annex. A/1 passed in OA No. 73/2013 is quashed and the respondents are directed to take the required steps for granting the applicants the pay scale of Rs. 950-1500 from the date of their appointment as Valvemen on notional basis with all consequential benefits. However, the arrears on account of fixation shall be payable only for a period from three years prior to the filing of the present O.As by the respective applicants. Since the applicants of OA No. 73 and 85 of 2013 have already been retired, the respondents shall, after arriving at the correct pay fixation, revise their pension accordingly and issue a fresh PPO. Further, consequent to the above directions, the L.Rs of Late Shri Mohan Lal, (applicants in OA No. 423/2012) would be entitled to receive the family pension after refixation of his pay in the revised pay scales as aforesaid. This order shall be complied with within a period of four months from the date of receipt of a copy of this order. No order as to costs.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal जोधपुर न्यायपीठ जोधपुर

COMPARED & CHECKED

CERTIFIED TRUE COPY
Dated....6.5.2013

बहुवान बिहारी (न्याय.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur.

—Sd—
(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

—Sd—
(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

mehta