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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**OA No. 372/2012 with MA 183/2012**  
**Jodhpur this the 25<sup>th</sup> day of September, 2013.**

**CORAM**

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

1. Jayanti Lal S/o Shri Nag Singh, age 59 years, resident of B/107 Sukh Ram Nagar, Soorsagar, Jodhpur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
2. S.S. Bhati S/o Shri Sardar Singh Bhati, age 59 years, resident of Balesar via Shergarh, Dist. Jodhpur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
3. S.S. Rao S/o Shri Nathu Singh, age 58 years, resident of BPO Ghumanhera, New Delhi presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
4. Bhopal Singh S/o Shri Swaroop Singh, age 58 years, resident of BPO Umaidsar, Via Osian, Jodhpur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
5. Mahendra Sharma S/o Shri Suresh Chandra Sharma, age 35 years, resident of Shishak Colony, Gupteshwar Road, Dausa presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
6. Nathu Lal Meena S/o Shri Rajang Meena, age 51 years, village Jambura, The. Sarara, Dist. Udaipur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
7. Arjun Singh Gehlot S/o Shri Ram Lal Gehlot, age 57 years, resident of VPO Chainpura, Magra Punjla, Jodhpur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.
8. C.R. Chahilya S/o Shri Adu Ram, age 57 years, Jagjevan Ram Colony, Near Bhadwasiya Phatak, Mandore Road, Jodhpur presently working as Driller-Incharge, Central Ground Water Board, Division-XI, Jodhpur.

.....Applicants

(Through Advocate Mr Vinay Jain)

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## Versus

1. The Union of India through Secretary, Ministry of Water Resources, Shram shakti Bhawan, Rafi Marg, New Delhi.
2. Chairman, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad.
3. Director (Finance), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
4. Administrative Officer, Ministry of Water Resources, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad.
5. Executive Engineer, Central Ground Water Board, Division XI, C-8 Sarswati Nagar, Jodhpur.

..... ..Respondents

(Through Advocate Ms K. Parveen)

ORDER (Oral)

**Per Justice Kailash Chandra Joshi, Member (J)**

Heard on MA for condonation of delay as well as to pursue the application jointly by the 8 applicants.

2. The courts/tribunals should decide the matters on merits unless the case is hopelessly without merit as condonation of delay always advances the cause of justice. The MA for condonation of delay is allowed for the reasons stated in the MA itself.
3. The prayer of the applicants to allow the applicants to pursue joint application is allowed as applicants are aggrieved of

same cause of action arising out of non-granting of Grade Pay of Rs 5400/- on non functional basis.

4. The applicants by way of this application have challenged the legality of the order Annex. A/1 by which the Assistant Engineers and Drilling-Incharge have been denied the grant of Grade Pay (GP) of Rs 5400/- in Pay Band (PB)-II after completion of 4 years regular service in GP Rs 4800/- by the Govt. of India, Ministry of Water Resources vide letter dated 19.01.2011.

5. The short facts of the case are that vide order dated 18.09.2008, the respondent-department recommended the implementation of 6<sup>th</sup> Central Pay Commission (CPC) and it was further requested that pay scale to the Group -B (Gazetted) categories officers Rs 7500-12000 has been considered by 6<sup>th</sup> CPC and 6<sup>th</sup> CPC had decided that Group-B Officer categories in the pre revised pay scale of Rs 7500-12000 are placed in the PB-2 corresponding revised to pay scale of Rs 9300-34800 by which grade pay of Rs 5400/- on non functional basis after four years of regular service in the grade pay of Rs 4800/- in PB-II has been recommended by the respondent-department which was subsequently withdrawn by the Government vide order dated 03.02.2009. Again this proposal for granting of higher GP of Rs 5400/- on completion of 4 years service in pre revised pay scale of Rs 7500-12000 to Group 'B' (Gazetted) Officers was

recommended by the respondent-department but in this proposal Assistant Engineer and Driller Incharge were left inadvertently as per Annex. A/4. This proposal sent by the respondent-department was accepted by the Government and passed the order dated 19.01.2010 (Annex. A/5) was issued. A representation dated 20.01.2010 was submitted by All India C.G.W.B. Engineering Officers Association for inclusion of Group 'B' (Gazetted) Engineering Officers (Assistant Engineer and Driller Incharge) of CGWB in PB-II with GP of Rs 5400/- after completion of 4 years of regular service. A representation vide letter dated 01.02.2010 was submitted by the All India Ground Water Board Officers Association. The Director (Administration) of CGWB has sent a proposal vide letter dated 05.02.2010 for granting higher GP of Rs 5400/- on non functional basis after four years of regular service in the grade pay of Rs 4800/- in PB-II to Driller Incharge and Assistant Engineer at par with Group 'B' Scientific Officers of CGWB. Again representation was submitted by the Association in this respect. The Chairman, CGWB sent a proposal to JS&FA vide letter dated 11.08.2010 and 06.10.2010 in this respect. The very proposal sent by the respondent-department in this respect was denied by the Government vide order dated 19.01.2011 (A/1). The respondent-department vide its letter dated 03.03.2011 to Under Secretary, Ministry of Water Resources, GOI requested that Assistant Engineer and Driller Incharge are common feeder posts for promotion to the post of AEE, therefore, they should also be

considered for grant of GP Rs 5400/- PB-II on non functional basis after completion of 4 years regular service in GP 4800/- and further a proposal dated 08.04.200111 was also sent by the respondent-department. The Association submitted a representation dated 15.06.2012 against denial of GP GP Rs 5400/- PB-II on non functional basis after completion of 4 years regular service in GP 4800/- to Driller Incharge and Assistant Engineer by the respondent-department which has not yet been decided nor any reply has been given, therefore, the applicants filed this OA seeking following relief (s) :

- (a) It is therefore, prayed that by an appropriate order or direction, by which order dated 19.01.2011 (Annex. A/1) and order dated 03.02.2009 (Annex. A/2) may kindly be quashed and set aside and respondent-department be directed to grant the benefit of Grade Pay Rs 5400/- in PB-II after 4 years of regular service in Grade Pay Rs 4800/- as recommended by the 6<sup>th</sup> CPC to Group 'B' (Gazetted) Engineering Officers working on the post of Assistant Engineers and Driller Incharge with all consequential benefit from the date they are entitled.
- (b) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

6: By way of counter, respondents in their reply contended that a proposal for grant of GP of Rs 5400/- in PB-II of Group 'B' Officers in the pre-revised pay scale of Rs 7500-12000 was sent to the Ministry vide letter dated 26.04.2010, but the same was not granted and again a proposal was sent for Group 'B' (Gazetted) Scientific Officers, Administrative Officers Gr. II and Sr. Private Secretary's but inadvertently the cadre of Assistant Engineer and

Driller Incharge were not included in the proposal. This proposal was accepted by the Ministry of Water Resources, GOI (hereinafter Ministry) and when subsequently made a proposal was made to the Ministry for granting the same Grade Pay to the cadre of Assistant Engineer and Driller Incharge, it was denied by the Ministry. The respondents prayed in the reply that Annex. A/1 is passed on the ground that the cadre of Assistant Engineer and Driller Incharge are common category posts and dispensation of GP 5400/- PB-II on non functional basis after completion of 4 years regular service in GP 4800/- to the cadre of Assistant Engineer and Driller Incharge working in CGWB will not be possible. In the reply, respondent-department has also specifically averred that it has been clarified to the Ministry that the posts of Driller Incharge and Assistant Engineer are not common category posts and these posts are common feeder post of Assistant Executive Engineer (AEE) but that has not been agreed. In view of the averments made in the reply, the respondents have prayed to dismiss the OA.

7. Heard both the parties. Counsel for the applicant contended that when the similarly situated posts/cadre/persons have been granted the benefit of GP Rs 5400/- GP-II on non functional basis and the proposal sent to the Ministry by which the GP of Rs 5400/- was granted to the other posts but at that time the posts of Driller Incharge and Assistant Engineer were left out inadvertently by the

respondent-department. However, recommended later to grant the same GP to these posts and there was no valid or legal reason for the Ministry to deny the same benefit to the Assistant Engineer and Driller Incharge. He further contended that respondent-department has specifically clarified to the Ministry vide letter dated 03.03.2011 that '*Driller-In-Charge is not a common category post. It is a specific post for the Drilling department. DICs and AEs are common feeder posts for promotion to the post of AEE.*' , therefore, the action on the part of the Ministry cannot be said to be legal and denying such right is discriminatory to the applicants and violative of principle of equality and fairness.

8. Per contra counsel for the respondents has contended that the respondent-department has referred the matter to the Ministry vide letter dated 19.01.2011 (Annex. A/1) but this proposal was denied on the ground that Driller-Incharge and Assistant Engineer are common category posts and dispensation of Grade Pay of Rs 5400/- in PB-II to only Driller-Incharge and Assistant Engineer working in CGWB may not be possible.

9. We have considered the rival contentions of both the parties and also perused the order Annex. A/1 passed by the Ministry. The posts of Driller-Incharge and Assistant Engineers may be in other Departments also but in the CGWB, Ministry of Water Resources, GOI these are the common feeder posts to the

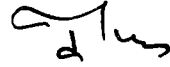
promotion to the post of AEE; where and which service rules/recruitment rules of the other Departments such posts are feeder posts for promotion to the post of AEE has not been referred in the order Annex. A/1. Looking to the special condition in the recruitment/service rules of the CGWB that the Driller-Incharge and Assistant Engineer are specific posts for Drilling Department and these posts are the common feeder posts for the post of AEE, and the denial of the GP Rs 5400/- PB-II on non function basis after completion of 4 years regular service in GP Rs 4800/- to the Driller Incharge and Assistant Engineer is violative to the right of equality. It is clear from the record that earlier similar pay was granted to the Assistant Engineer and Driller-Incharge vide Annex. A/3 and subsequently it was withdrawn for 7 categories vide Annex. A/2 and then again it was granted to other categories except Assistant Engineer and Driller-Incharge.

10. Accordingly, while allowing the OA we direct the respondents to reconsider the proposal for grant of Rs GP 5400/- PB-II on non functional basis after completion of 4 years regular service in GP Rs 4800/- at par with Group 'B' Scientific Officers of Central Ground Water Board (Annex. A/5) in view of the discussions made hereinabove. The respondents shall complete this process with 3 months from the date of receipt of this order.

11. With above direction, OA is allowed. There shall be no order as to costs.



(MEENAKSHI HOOJA)  
ADMINISTRATIVE MEMBER



(JUSTICE K.C. JOSHI)  
JUDICIAL MEMBER

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