

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 24/2013

Jodhpur this the 27th day of May, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

1. Girish Sharma S/o Shri Ram Krishan, MES No. 370940, Aged about 44 years, Resident of Qtr No. 178/04, MES Colony, Sri Ganganagar (Raj)
2. Bhagwan Singh S/o Late Sh. Faguni Ram, Aged about 43 years, MES No. 370938
3. Ram Shankar Late nathu Lal, Aged aboutyears, MES No. 370976
4. Magga Ram S/o Shri Kanna Ram, Aged about 48 years, MES No. 370659
5. Ram Parsad S/o Shri Shambhu Ram, Aged about 46 years, MES No. 370473
6. Jetha Ram S/o Shri Nathu Ram, Aged about 43 years, MES No. 370474
7. Ram Dev Morya S/o Sh. Ram Adhar, Aged about 49 years, MES No. 370936
8. Kharga Ram S/o Shri Chuni Lal, Aged ab out 42 years, MES No. 370809
9. Ramji Lal S/o Shri Mala Ram, Aged about 50 years, MES No. 369660
10. Inder Kumar S/o Sh. Keshav Dutt, Aged about 46 years, MES No. 370939

(Petitioner No. 1 to 10 are working on the post of FGM)

11. Manwar Singh S/o Shri Jabar Singh, Aged about 49 years, MES No. 370237

(Petitioner is working on the post of Electrician)

12. Ram Behal S/o Late Shri Kuwan, Aged about 46 years, MES No. 367212
13. Mohmad Ibrahim S/o Shri Farjoo Din, Aged about 47 years, MES No. 313587
14. Amar Nath S/o Shri Jairla, Aged about 44 years, MES No. 313589
15. Raheem Tulla S/o Shri Rajbali Miya, Aged about 43 years, MES No. 367407
16. Shyam Narayan S/o Late Sh. Ram Dhani, Aged about 49 years, MES No. 313590
17. Shiv Din S/o Shri Manogi Rai, Aged about 45 years, MES No. 313609

2

18. Vinod Sekhawat S/o Shri Sawai Singh, Aged about 44 years, MES No. 313218
19. Satya Pal Singh S/o Sh. Shankar Singh, Aged about 47 years, MES No. 367829
20. Bane Singh S/o Sh. Kurada Singh, Aged about 49 years, MES No. 313609
21. Bhopal Ram S/o Shri Gulab Ram, Aged about 42 years, MES No. 36699749
22. Ram Babu Singh S/o Late Ram Avtar Singh, Aged about 45 years, MES No. 313217
23. Subhash Chandar S/o Sh. Khyali Ram, Aged about 48 years, MES No. 372116
24. Nagina Ram S/o Late Shri Sharban Ram, Aged about 50 years, MES No. 367418
25. Lakhi Ram S/o Shri Garib Dass, Aged about 44 years, MES No. 370655
26. Mukh Ram S/o Late Ramji Lal, Aged about 47 years, MES No. 367418
27. Krissan Kumar ghorela S/o Sh. Jatha Ram, Aged about 49 years, MES No. 372235
28. Bhagirath S/o Shri Danna Ram, Aged about 50 years, MES No. 370231

(Petitioner No. 12 to 28 are working on the post of FGM)

29. Ram Krisan S/o Shri Khan Chand, Aged about 42 years, MES No. 374052

(Working on the post of Mate)

30. Beerbal Meena S/o Late Sh. N.K. Meena, Aged about 48 years, MES No. 370237
31. Yogeshwar Singh Nagi S/o Sh. Bishan Singh, Aged about 47 years, MES No. 313592
32. Kartar Singh S/o Shri Sadho Singh, Aged about 49 years, MES No. 367492

(Petitioner No. 30 to 32 are working on the post of FGM)

33. Mahipal Singh S/o Late Sh. Amar Singh, Aged about 44 years, MES No. 372923
34. Vijay Singh S/o Sh. Surjan Singh, Aged about 45 years, MES No. 372237
35. Vijay Kumar S/o Shri Hari Chand, Aged about 49 years, MES No. 370652
36. Babu Singh S/o Shri Bhan Singh, Aged about 42 years, MES No. 374036
37. Jagdish Swami S/o Sh. Roop Ram, Aged about 46 years, MES No. 231896
38. Om Parkash S/o Sh. Hari Chand, Aged about 49 years, MES No. 374036
39. Ram Avtar S/o Late Sh. Mata Din, Aged about 47 years, MES No. 369659

(Petitioner No. 33 to 39 are working on the post of P/Fitt)

40. Vad Parkash S/o Sh Karam Chand, Aged about 50 years, MES No. 369660
41. Ram Lal S/o Late Sh. Shiv Lal, Aged about 46 years, MES No. 367790
42. Sajjan Singh S/o Sh. Shiv Chand Ram, Aged about 44 years, MES No. 372905

(Petitioner No. 40 to 42 are working on the post of FGM)

43. Khama Chand S/o Late Sh. Om Dutt, Aged about 48 years, MES No. 374051
44. Sukh Charan S/o Late Balbir Singh, Aged about 46 years, MES No. 379416
45. Param Pal S/o Shri Kanya Lal, Aged about 47 years, MES No. 372231
46. Madan Swami S/o Sh. Ram Chandar Swami, Aged about 49 years, MES No. 369679
47. Satya Pal Sharma S/o Late Sh. Hari Ram Sharma, Aged about 50 years, MES No. 370640
48. Babulal S/o Shri Mangal Ram, Aged about 43 years, MES No. 370606
49. Amar Singh S/o Shri Utam Singh, Aged about 44 years, MES No. 370883
50. Jagtar Singh S/o Shri laxman Singh, Aged about 49 years, MES No. 373508
51. Shiv Dutt S/o Shri Bhanwar Lal, Aged about 46 years, MES No. 314897
52. Sarwan Kumar S/o Sh. Mathura Das Meena, Aged about 48 years, MES No. 314173
53. Munsil Lal Meena S/o Sh. Mool Chand Meena, Aged about 49 years, MES No. 372908
54. Dharam Singh S/o Shri Diwan Singh, Aged about 42 years, MES No. 4455112
55. Dharam Beer Singh S/o Shri Ganda Ram, Aged about 46 years, MES No. 370237
56. Sukh Ram S/o Late Ram Chander, Aged about 44 years, MES No. 313274
57. Desh Raj S/o Shri Lakh Raj, Aged about 42 years, MES No. 370943
58. Naresh Bhardwaj S/o Shri madan lal, Aged about 46 years, MES No. 370237

(Petitioner No. 43 to 58 are working on the post of Electrician)

59. Ram Chander Meena S/o sh. Somt Ram, Aged about 48 years, MES No. 314381
60. Ram Chander Bakoliya S/o Shri Bholu Ram, Aged about 47 years, MES No. 374043

(Petitioner No. 43 to 58 are working on the post of Ref/Mech.)

61. Radhya Krisan S/o Shri Hari Singh Yadav, Aged about 46 years, MES No. 369657
62. Hari Krissan S/o Sh. Durga Dutt, Aged about 43 years, MES No. 374033
63. Krissan Lal Kukna S/o Sh. Devsi Ram Kukna, Aged about 47 years, MES No. 372245
64. Deep Singh S/o Shri Karnail Singh, Aged about 47 years, MES No. 370445
65. Gurlal Singh S/o Sh. Suhal Singh, Aged about 48 years, MES No. 372917
66. Sundar Ram S/o Sh. Sri Ram Chand, Aged about 44 years, MES No. 374361
67. Raj Kumar S/o Shri Hans ram, Aged about 49 years, MES No. 366005
68. Govind Singh S/o Sh. Satya Singh, Aged about 46 years, MES No. 367807

(Petitioner No. 61 to 68 are working on the post of Elect.)

69. Ram Barose S/o Late Mangu Lal, Aged about 46 years MES No. 374036

(Working on the post of FGM)

70. Mahaveer Parsad S/o Sh. Thawariya Ram, Aged about 47 years, MES No. 374716

(Working on the post of Elect.)

71. Puran Chand S/o Shri Surja Ram, Aged about 42 years, MES No. 373292

72. Lachhi Ram S/o Shri Bansi Ram, Aged about 45 years, MES No. 374031

(Petitioner No. 71 to 72 are working on the post of P./Fitt.)

73. Duth Ram S/o Sh. Gopi Ram, Aged about 47 years, MES No. 313234

(Working on the post of Ref./Mech.)

74. Sundar Ram S/o Shri Ram Chand, Aged about 44 years, MES No. 374361

75. Ravindar Nathan S/o Shri Sri Dharan, Aged about 49 years, MES No. 370233

76. Indraj S/o Shri Mati Ram, Aged about 46 years, MES No. 372391

77. Birbal Ram S/o Sh. Ladhu Ram, Aged about 47 years, MES No. 374039

(Petitioner No. 74 to 77 are working on the post of Elect.)

78. Sudama Singh S/o Sh. Hansa Singh, Aged about 44 years, MES No. 370651

(Working on the post of FGM)

79. Ram Kishor S/o Sh. Vijpal Singh, Aged about 46 years, MES No. 372247

80. Mahaswar Das S/o late Sh. Ramji Lal, Aged about 49 years, MES No. 368911

81. Banwari Lal S/o Sh. Pola Ram, Aged about 42 years, MES No. 317874

(Petitioner No. 79 to 81 are working on the post of Ref/Mech.)

82. Rajendar Partap S/o Shri Panaru Singh, Aged about 45 years, MES No. 367839

(Working on the post of Elect.)

83. Hate Ram S/o Sh. Dhonka Nath, Aged about 43 years, MES No. 374028

(Working on the post of FGM)

84. Mohan Lal S/o Shri Anant Ram, Aged about 48 years, MES No. 372916

85. Mehtab Singh S/o Shri Balbir Singh, Aged about 49 years, MES No. 372238

(Working on the post of MCM)

86. Prakash S/o Shri Budh Ram, Aged about 52 years, MES No. 313160

(Working on the post of FGM)

87. Ramji Lal Meena S/o Shri R.C. Meena, Aged about 46 years, MES No. 314508

88. Ved Prakash Handa S/o Sh. Karam Chand, Aged about 46 years, MES No. 3143386

(Working on the post of R/Mech.)

.....Applicants

(Through Advocate Mr. M.S. Godara)

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Defence, Raksa Bhawan, New Delhi.

2. Commander Works Engineer, M.E.S, Sri Ganganagar (Rajasthan).

3. Garrison Engineer, MES, Sri Ganganagar (Rajasthan).

(Through Advocate Ms K. Parveen)

.....Respondents

ORDER (Oral)

The total 88 applicants have sought permission to file joint original application and the same is allowed for the reasons stated in the OA itself.

2. The short facts of the case are that the applicants are working on the different post in the pay scale of Rs 3200-5500 and Rs 4000-6000 which is revised in the pay scale of Rs 5200-20200 with grade pay of Rs 1900/- and 2400/- respectively. The applicants are being paid night duty allowance (NDA) @ 9% considering their pay maximum of Rs 2200/- but after implementation of 5th and 6th Pay Commissions applicants are getting much more pay but the respondents paying the NDA considering their pay Rs 2200 maximum. Despite the directions to the respondents by the Hon'ble Tribunal passed in OA No. 34/2008 the respondents are not paying NDA to the similarly situated persons i.e. the applicants in the present OA. In the OA No. 34/2008 it has been ordered that the same NDA shall be paid to the similarly situated persons and the applicants in present OA are similarly situated to the applicants in OA No. 34/2008, the employees who filed OA No. 34/2008.

3. The applicants prayed that the respondents may be directed to pay NDA on the basis of actual salary of the applicants from the date when their pay exceeded from Rs 2200/- p.m. with arrears and interest their upon @ 9% per annum.

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4. In this case notices were served on 27/02/2013 and 4 weeks' time was granted to file reply to the respondents. And on 18/04/2013 also, 4 weeks' time was granted to file reply. However, as on today, reply has still not been filed. Therefore, looking into the facts and circumstances of the case, the respondents' right to file reply is closed.

5. Counsel for the applicant annexed the judgment passed by this Tribunal in OA No. 34/2008 on 05.11.2009 at Annexure A/1 in which following directions were issued:

“(i) The Night Duty Allowance shall be paid to the applicants and the similarly situated persons on the basis of the actual salary after taking out the pay structure determinants like HRA etc. which have no actual relation to the work performed and on the basis of this pay, thus arrived at, Night Duty Allowance is payable to the applicants.

(ii) The applicants are entitled to such arrears as is applicable to them from April, 2007 on the basis of actual pay thus arrived at without any interest if the amount is calculated and arrears paid to them from six months from the date of receipt of a copy of this order and thereafter with 6% interest.

(iii) This OA is allowed to the extent as aforesaid. No order as to costs. “

6. As all the similarly situated employees have been ordered to be paid night duty allowance on the basis of actual salary after taking out pay structure determinants like HRA etc which have no actual relation to the work performed and on the basis of this pay, thus arrived at, Night Duty Allowance (NDA) is allowed to be paid to the applicants in OA No. 34/2008 and arrears have been allowed

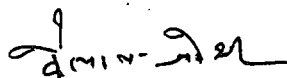
from April 2007 on the basis of actual pay thus arrived at without any interest if the amount is calculated and arrears paid to them within six months from the date of receipt of a copy of this order and thereafter with 6% interest.

7. The facts of present case are squarely covered with the OA No. 34/2008. Accordingly, the OA is allowed in terms of order passed on 05.11.2009 in OA No. 34/2008 and following directions are issued:

“(i) The Night Duty Allowance shall be paid to the applicants and the similarly situated persons on the basis of the actual salary after taking out the pay structure determinants like HRA etc. which have no actual relation to the work performed and on the basis of this pay, thus arrived at, Night Duty Allowance is payable to the applicants.

(ii) The applicants are entitled to such arrears as is applicable to them from April, 2007 on the basis of actual pay thus arrived at without any interest if the amount is calculated and arrears paid to them from six months from the date of receipt of a copy of this order and thereafter with 6% interest.

(iii) This OA is allowed to the extent as aforesaid. No order as to costs.



**(Justice K.C. Joshi)
Judicial Member**