

ચે.અ.અ. (શક્તિયા) નં. 66/2013, 22 ને અનુંગત નિઃ સુલક પ્રદિ

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Jodhpur, this the 26<sup>th</sup> day of March, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)  
Hon'ble Ms Meenakshi Hooja, Member (Administrative)

Original Application No. 66/2013

Sattar Khan s/o Shri Chand Khan, aged about 59 years, r/o Behind Sain Mandir, Maderna Colony, Krishi Mandi, Jodhpur, at present employed on the post of Pipe/F (SK) under FE Shikargarh, Jodhpur

.....Applicant

By Advocate: Mr. S.K.Malik on behalf of Mr B.Khan

**Versus**

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

.....Respondents

By Advocate : Ms. K.Parveen

Original Application No. 67/2013

Bajrang Singh s/o Shri Sawant Singh, aged 60 years, r/o Dhabighat, 259 Air Force, Jodhpur at present employed on the post of Valve Men in the office of Garrison Engineer, Air (MES) Jodhpur

.....Applicant

By Advocate: Mr. S.K.Malik on behalf of Mr B.Khan

**Versus**

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

.....Respondents

By Advocate : Ms. K.Parveen

Original Application No. 216/2013

Loki Ram Yadav s/o Shri Kanhaylal Ji, aged about 57 years, r/o House No.53, Prithvi Pura, Rasala Road, Jodhpur at present employed on the post of Pipe Fitter HS-I under GE MES (Army) Utility, Jodhpur

.....Applicant

By Advocate: Mr. S.K.Malik on behalf of Mr B.Khan

**Versus**

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

.....Respondents

By Advocate : Ms. K.Parveen

ORDER (Oral)

Per Justice K.C.Joshi, M(J)

Since similar controversy of law and facts involve in these OAs, therefore, these are being disposed of by this common order.

2. The applicants in these OAs have also filed Misc. Application Nos. 38/2013 (in OA No.66/2013), 39/2013 (in OA No.67/2013) and 98/2013 (in OA No.216/2013) for condonation of delay in filing the above OAs. After considering the grounds mentioned in these MAs, in the interest of justice, the same are allowed.

3. For the sake of convenience we are taking facts of OA No.66/2013.

4. Brief facts of the case, as averred by the applicant, are that the applicant was initially appointed as Chowkidar in the year 1973 and thereafter promoted on skilled post of Valve Man vide order dated 4.4.1978 and further to the post of Pipe/F.(SK) on 20.1.1987. The recruitment of the applicant was governed by Military Engineering (Industrial Class III and IV posts) Recruitment Rules, 1971. The applicant has averred that this Tribunal and other Benches of the CAT have repeatedly held that the post of Valve Man is a skilled post and the same has been upheld by the Hon'ble Rajasthan High Court and Hon'ble Apex Court. According to the applicant, he had been discharging the duties of skilled post right from the date of his promotion in pay scale of skilled post i.e. Rs. 260-400 which was revised to Rs. 950-1500 and thereafter Rs. 3050-4500 whereas he was paid salary in the pay scale of Rs. 210-290/800-1150 which is pay scale of semi-skilled category. It is further stated by the applicant that this Tribunal vide order dated 13.3.1999 passed in OA No.395/96-Jaswant Ram and others vs. Union of India allowed the OA and directed the respondents to fix the applicants therein in the pay scale of the skilled grade from the date of their initial appointment (Ann.A/2). The respondents challenged the said order before the Hon'ble Rajasthan High Court but the same was dismissed. Thereafter the respondents filed SLP No.6325/2001, Union of India vs. Jaswant Ram and Others before the Hon'ble Supreme Court and the same was also dismissed on 3.4.2001 (Ann.A/3). The applicant has referred various cases of this Tribunal in which similar directions were given by this Tribunal. Further averred that vide order dated 21.3.2002 passed in OA No.258/2001- Gepa Ram vs. Union of India, this Tribunal directed respondent No.1 and 2 of the present OA who were also respondents in OA No.258/2001 to grant pay scale of Rs. 950-1500 to the applicants of that OA from the dates of their appointment as Valve Man. The said order was

challenged before the Hon'ble High Court in Civil Writ Petition No.1483/02 which was dismissed and thereafter the SLP No.4932/2002 which was later on numbered as Civil Appeal No.1475/04, Union of India vs. Gepa Ram was also dismissed by the Hon'ble Apex Court vide order dated 16.6.2011 (Ann.A/7). The applicant has further averred that the respondents have no right to make artificial distinction and difference in the matter of salary between those employees who had gone to Court and those who did not knock the door of the Court, which is violative of Article 36 (c) read with Articles 14 and 16 of the Constitution of India. According to the applicant, the matter of pay scale of Valve Man is not res-integra and since the SLP and Civil Appeal – Union of India vs. Gepa Ram, filed by the respondents has been dismissed by the Hon'ble Supreme Court, therefore, the respondents are duty bound to grant the skilled pay scale to the applicant from the date of promotion. Therefore, aggrieved of the inaction on the part of the respondents, the applicant has filed this OA praying for the following reliefs:-

"That in view of the facts and grounds mentioned herein above the applicant prays that the respondents may kindly be directed to pay the applicant salary in the pay scale of Rs. 260-400/950-1500 and as further revised from time to time from the date of his promotion to the post of Valve Man and consequently to revise his fixation with all consequential benefits. Any other relief, deemed fit by this Hon'ble Tribunal may also be granted to the applicant. Costs may also be awarded to the applicant."

In other two OAs, the applicants have prayed for the same relief as has been prayed in OA No.66/2013.

5. The respondents by way of filing reply to OA No. 66/2013 have denied right of the applicant. The respondents have submitted that the applicant was granted promotion in Valve Man category as per rules in vogue and he was paid the salary of the pay scale applicable. According to

the respondents, the case of Jaswant Ram and others pertains to some other area and hence this decision is not applicable in the present case and the applicant is misleading the court by co-relating the case of Jaswant Ram and others. With regard to the case of Gepa Ram, the respondents have submitted that Writ Petition has been filed and on dismissal of the same by the Hon'ble High Court, SLP was filed which is also dismissed. It has been further submitted that the respondents have not acted arbitrarily and the actions taken by the respondents are as per the existing rules on the subject. According to the respondents, the applicant is drawing the pay scale based on the rules in vogue and now after a lapse of 30 years, the applicant is raising the issue for revision of his pay and allowances as due for skilled category and he has already retired from service on 31.5.2013.

In OA No. 67/2013, even after affording opportunity to the respondents, they have not filed reply to the OA, but in the reply to the MA for condonation of delay, it is submitted that the Valve Man category is semi-skilled category and accordingly, they were paid semi-skilled grade. The applicant's plea that the Valve Man is coming under skilled grade is agreed by Court and thus directed to treat them as skilled category, however, this was not acceptable to the Government; but to honour the Courts order, the applicants of different OAs were given the benefits, and these orders were not extended to those who did not approach the Hon'ble Court for similar treatment. Further submitted that the department is constantly contested and refuted the applicant's plea before the Hon'ble High Court and Supreme Court, but the Courts were not admitting the plea and directed to consider the Valvemen as skilled category and to give the pay scale of skilled category and in view of the Court's verdict in various OAs, the matter is under examination at Government of India level.

In OA No.216/2013, the respondents have replied in the similar manner as has been replied in OA No.66/2013.

6. Heard the counsel for the parties. During the course of arguments, the learned counsel for the applicants submitted that he does not want to file rejoinder to the reply filed by the respondents.

7. After considering the contentions put forth by the respective parties, we are of the view that since the controversy involved in these OAs has already been decided by this Bench of the Tribunal in OA No.258/2001, Gepa Ram vs. Union of India vide order dated 21.3.2002 (Ann.A/6) and the Writ Petition filed by the Union of India against the said order has also been dismissed by the Hon'ble Rajasthan High Court and thereafter the order in the Writ Petition was further challenged by the Union of India which has been dismissed by the Hon'ble Supreme Court vide order dated 16.6.2011, therefore, there is no requirement to discuss each and every point in detail. That apart, in various OAs filed thereafter this Tribunal has followed the same ratio and recently vide order dated 14.2.2014 passed in OA No.126/2013 and 352/2013 this Tribunal has also considered the same controversy on similar lines. Therefore, without detailed discussions in the matter, we dispose of these OAs with certain directions.

7. Accordingly, the OAs are allowed with direction to the respondents to take the required steps for granting pay scale of Rs. 950-1500 to the applicants from the date of their appointment as Valvemention notional basis with all consequential benefits. However, the arrears on account of fixation shall be payable only for the period from three years prior to filing of the present OAs by the respective applicants. This order shall be complied with in letter and spirit. This order is final.

within a period of four months from the date of receipt of a copy of this order.

No order as to costs.

*sd -*  
[Meenakshi Hooja]  
Administrative Member

*sd*  
[K.C. Joshi]  
Judicial Member

CERTIFIED TRUE COPY  
Date 31/3/2014

COMPARED &  
CHECKED

*J.K. Shah*

Officer in Charge  
Family Court, Bhopal

Received cash  
W. Farmer  
1/4/14