

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application Nos.290/00374/2014, 290/00377/2014,
290/00378/2014 & 290/00128/2015

with

MA No.290/00393/2014, 290/00394/2014, 290/00395/2014 &
290/00069/2015

Jodhpur, this the 25th day of May, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

(1) OA No.290/00374/2014

1. Bajrang Lal Punia son of Shri Bag Chand, aged 46 years, Electrician HS, Outside Bidasar Bari, Bikaner.
2. Tara Chand S/o Shri Ganga Sharan, aged 49 years, FGM SK R/o Near Laxmi Medical Store, Nal Badi, Bikaner.
3. Maga Ram S/o Shri Moda Ram, aged 52 years, FGM SK Ganga Shahar Road, Goga Gate, Bikaner.
4. Devi Singh S/o Shri Roop singh, aged 59 years, FGM HS, R/o Near Police Thana, Nal Badi, Bikaner.
5. Om Prakash S/o Shri Sohan Lal, aged 49 years, Pipe Fitter; r/o Ambedkar Chowk, Nal Badi, Bikaner.
6. Mahendra Singh Daiya s/o Shri Gauri Shanker, aged 49 years, Electrician SK; r/o Gali No.4, Hanuman Hatha, Bikaner.
7. Dipendra Sharma s/o Shri Ramji Lal, aged 51 years, Electrician HS; r/o 14/184, Mukta Prasad Colony, Bikaner.
8. Sukhi Ram S/o Shri Ghisa Ram, aged 52 years, FGM HS, R/o NH-15, Opposite Police Thana, Nal Badi, Bikaner.
9. Kishan Singh s/o Shri Daan Singh, aged 52 years, FGM SK r/o Chhoti Nal, Bikaner.

All applicants posted in the office of Garrison Engineer,
MES, Nal, District Bikaner.

... Applicants

(By Advocate: Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Air Force, Bikaner.
3. Garrison Engineer, MES, Nal District, Bikaner.

.....Respondents

(By Advocate: Ms. K.Parveen)

(2) **OA No.290/00377/2014**

1. Sunil Kumar Modi s/o Shri Koda Ram, aged 42 years, Electrician SK, R/o Jaj ji Road, Suratgarh, District Sri Ganganagar.
2. Bhola Nath Sharma s/o Shri Goverdhan Das, aged 49 years, Electrician HS, R/o 1/1916, Mukta Prasad Colony, Bikaner.
3. Ram Ratan S/o Shri Kanhaya Lal, aged 49 years, Electrician HS R/o Inside Kot Gate, Bikaner.
4. Virendra Kumar Sharma S/o Shri Chhagan Lal, aged 34 years, Electrician SK, Godawatn Ki Gali, Hanuman Hatha, Bikaner.
5. Rudra Kumar Verma S/o Shri Gaya Prasad, aged 43 years, Electrician SK R/o village Hanwantpur, District Rai Bareli, UP.
6. Jagdish Kumar S/o Shri Roopa Ram, aged 50 years, Electrician SK; r/o Near Kheteshwar Mandir, Gangashahar, Bikaner.
7. Moda Ram S/o Shri Dhura Ram, aged 48 years, Electrician SK; r/o Meghwalon ka Mohalla, Nal Badi, Bikaner.
8. Roop Chand Sharma S/o Shri Basdri Narain, aged 49 years, Electrician HS; R/o 14/184, Malu Dhora, Bhinasar, Bikaner.
9. Hari Kishan Swami S/o Shri Raj Kumar, aged 29 years, Mate, R/o Behind Police Choki, Rampura Basti, Lalgarh Bikaner.

All applicants posted in the office of Garrison Engineer, MES, Nal District Bikaner.

.. Applicants

(By Advocate: Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Air Force, Bikaner.
3. Garrison Engineer, MES, Nal District, Bikaner.

.....Respondents

(By Advocate: Ms. K.Parveen)

(3) **OA No.290/00378/2014**

1. Ashok Kumar S/o Shri Laxman Das, aged 50 years, Electrician HS, R/o Maru Nayako Ka Chowk, Nayaon ki Gali, Bikaner.
2. Mool Chand S/o Shri Ram Deo, aged 53 years, Electrician SK, R/o Near Mata ji Ka Mandir, Purani Ginani, Bikaner.
3. Madan Singh S/o Shri Ganga Bishan Singh, aged 50 years, Electrician SK, R/o Gali No.9, Rampura Basti, Lalgarh, Bikaner.
4. Devendra Kumar Khatri s/o Shri Hanuman Prasad, aged 49 years, Electrician HS, Sonu Sari Centre, Toliayasar Bheru ji Gali, Bikaner.
5. Richpal singh S/o Shri Mool Singh, aged 56 years, FGM SK R/o Choti Nal, Bikaner.
6. Ram Kumar S/o Shri Manwar Ram, aged 47 years, FGM SK; R/o Behind Dholamaru Hotel, Sadulganj, Bikaner.
7. Anil Kumar S/o Shri Krishna Murari Sharma, aged 56 years, FGM SK; r/o 5/311, Mukta Prasad Nagar, Bikaner.
8. Bhartendu Gaur S/o shri Devi Sharan Sharma, aged 50 years, FGM HS; R/o Behind Anathalaya, Vivek Nagar, Bikaner.

All applicants posted in the office of Garrison Engineer, MES Nal, District Bikaner.

.....Applicants

(By Advocate: Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Air Force, Bikaner.
3. Garrison Engineer, MES, Nal District, Bikaner.

.....Respondents

(By Advocate: Ms. K.Parveen)

(4) **OA No.290/00128/2015**

1. Ashok Kumar s/o Shri Dina Nath, aged 54 years, FGM HS, r/o Behind Rambhog Atta Chaki, Dera Sachha Soda Colony, Fazilka.
2. Baldev Singh S/o Shri Santokh Singh, aged 56 years, Electrician,
3. Bhagirath S/o shri Ram Chandra, aged 57 years, Electrician,
4. Puran Singh S/o shri Gobind Singh, aged 49 years, Fitter Pipe,
5. Shanker Lal S/o Shri Hanuman Mal, aged 48 years, Fitter Pipe,
6. Leela Ram s/o Shri Lachman Ram, aged 50 years, FGM,
7. Sohan Singh s/o shri Karnail Singh, aged 52 years, FGM,
8. Krishan lal s/o Shri Bhagwan Das, aged 46 years, Electrician,
9. Rajendra Kumar s/o shri Sultan Ram, aged 52 years, FGM,
10. Pirthi Raj s/o Shri Kansi Ram, aged 49 years, FGM
11. Nishan singh s/o Shri Partap Singh, aged 57 years, Electrician,
12. Surindra Kumar s/o Shri Sumeria Ram, aged 57 yeas, FGM,
13. Mukesh Kumar s/o Shri Rajendra Prasad, aged 43 years, FGM,
14. Kansi Ram s/o Shri Shri Kishan, aged 59 years, FGM,
15. Jaswant Singh s/o Shri Rewat Singh, aged 51 years, FGM,
16. V.P. Singh s/o Shri Parmeshwar Singh, aged 57 years, FGM,
17. Bhajari Singh s/o shri Kishan singh, aged 57 years, FGM,
18. Lal Chand s/o shri Manphool Ram, aged 50 years, FGM,
19. Banwari Lal S/o Shri Sunder Ram, aged 49 years, FGM,
20. Vidhya Sagar s/o Shri Nikka Ram, aged 50 years, FGM,
21. Mukhtej Singh s/o Shri Bikram Singh, aged 53 years, FGM,
22. Jai Dev S/o Shri Hari Ram, aged 54 years, FGM,
23. Mohan Lal S/o Shri Sohani Ram, aged 51 years, FGM,
24. Balwant Ram s/o Shri Raja Ram, aged 52 years, FGM,
25. Brij Mohan s/o shri Devi Chand, aged 57 years, Electrician,
26. Virinder Singh s/o shri Kuldeep Singh, aged 36 years, Ref.Mech.
27. Surinder Singh s/o Shri Sardara Singh, aged 49 years, Electrician,

All applicants posted in the office of Garrison Engineer, MES, Abohar, District Fazilka and residents c/o Ashok Kumar s/o Shri Dina Nath, Behind Rambhog Atta Chaki, Dera Sachha Soda Colony, Fazilka.

.....Applicants

(By Advocate: Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sri Ganganagar.
3. Garrison Engineer, MES, Abohar District Fazilka.

.....Respondents

By Advocate : Smt. K. Parveen.

ORDER (ORAL)

In OA Nos. 374/2014, 377/2014 and 378/2014, it was ordered on 09.03.2015 that the respondents may deposit the cost of Rs. 500/- in CAT-Jodhpur Bench Library and then only the reply will be taken on record. The counsel for the respondents has not deposited the cost in any of these OAs, but filed one reply to OA no.374/2014, which cannot be taken on record because of non-deposition of cost and non-compliance of the order dated 09.03.2015. The reply so filed may be kept in part-C of the case file.

2. The applicants in these OAs filed Misc. Application Nos. 290/00394/2014 in OA No.377/2014, 290/00393/2014 in OA No.374/2014, 290/00395/2014 in OA No.378/2014 and 290/00069/2015 in OA no.290/00128/2015 for condonation of

delay in filing these OAs. Considered the Misc. Applications for condonation of delay in filing the OAs. To decide any case on merit always advances cause of justice and rather to decide such an application on technical grounds of delay, it would be better to decide the case on merit. Therefore, in view of facts narrated in the Misc. Applications, these are allowed.

3. All these OAs relate to similar matter and controversy and seeking the same relief i.e. claiming Night Duty Allowance, therefore, for the sake of convenience, these OAs are being decided by this common order. Prayer made in one of the OAs i.e. in OA No.290/00374/2014 is to the following effect:-

"The applicants pray that they may kindly be allowed to file and pursue this original application jointly. It is prayed that the respondents may kindly be directed to pay NDA and arrear of NDA from the year 1996 except applicant no.6 on the basis of actual salary of the applicants from the dates they have been performing night duty while discharging their duties. Interest at the rate of 12% on the due amount may also kindly be awarded in favour of the applicant. Any other order, as deemed fit, giving relief to the applicants may also be passed."

4. So far as prayer regarding pursuing the matter jointly is concerned, since the applicants have approached this Tribunal against a common cause, therefore, they are allowed to pursue the OAs jointly.

5. Heard the counsel for both the parties. Counsel for the applicants submitted that OA Nos. 290/00374/2014, 290/00377/2014, 290/00378/2014 and 290/00128/2015 relate to grant of Night Duty Allowance and are squarely covered by the several consistent orders of this Tribunal and Hon'ble High Court at Jodhpur, annexed at Ann.A/1 to A/5 and A/8 and more recent order of this Tribunal dated 9th April, 2015 in OA No.290/00001/2015 and prayed that the OAs be allowed.

6. Counsel for the respondents submitted that she could not deposit the cost as ordered vide order dated 09.03.2015 in OA Nos. 290/00374/2014, 290/00378/2014 and 290/00377/2014.

7. Counsel for the applicants submitted that as the issues and controversy in these OAs are covered by earlier orders of this Tribunal in similar/identical matters and hence the OAs may be decided without there being any reply on record.

8. Counsel for the respondents also agrees for the same.

9. The matter relates to payment of Night Duty Allowance according to the actual salary of the applicants. After perusal of the record, it is revealed that this matter is not res-integra and the same has been settled by this Tribunal in a number of cases filed by the similarly situated persons i.e. OA No.34/2008 decided on 5.11.2009- Ram Kumar and Ors. Vs. UOI and Anr., OA

Vs. UOI and Anr. and OA No.338/2010 decided on 27.5.2011- Shyam Lal and Ors. Vs. UOI and Ors. Thereafter this Tribunal has followed the same ratio in OA No.339/2014 while deciding a similar matter on 12.12.2014 in the case of Sumer Singh and ors. Vs. Union of India and Ors. as also in OA No.290/00001/2015 dated 9th April, 2015 in the case of Sukh Ram and Ors. Vs. UOI and Ors. Therefore, without discussing the matter in detail, these OAs are being disposed of on the same lines, as under:-

- (i) The Night Duty Allowance shall be paid to the applicants on the basis of actual salary after taking out the pay structure determinants like HRA etc. which have no 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 the date they were called upon to perform night duties as per record till date on the basis of actual pay thus arrived 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.

All the OAs stand disposed of as above with no order as to costs.



(MEENAKSHI HOOJA)

Administrative Member

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A
8/2/15

Received on 10/6/15
Rajeev Chaudhary