

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 290/00001/2015
with Misc. Application No.290/00001/2015

Jodhpur, this the 9th day of April, 2015

CORAM

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

1. Sukh Ram s/o Shri Raja Ram, aged 50 years, Fitter Pipe HS r/o P-26/7, MES Colony, Military Station, Abohar, District Fazilka.
2. Bal Ram s/o Shri Arjun Ram, aged 49 years, Fitter Pipe
3. Ved Prakash s/o Shri Devi Dutt, aged 50 years, Fitter Pipe
4. Dharmpal s/o Shri Gyani Ram, aged 54 years, FGM
5. Harihar s/o Shri Chanar, aged 58 years, FGM
6. Shiya Ram s/o Shri Dulari Lal, aged 50 years, FGM
7. Dungar s/o Shri Ronak, aged 55 years, FGM
8. Narendra Pal s/o Shri Sant Ram, aged 55 years, FGM
9. Surendra Nath, aged 55 years, FGM
10. Gurdev Singh s/o Shri Muktyar Singh, aged 39 years, Refrigerator Mechanic.
11. Arvind Kumar s/o Shri BN, aged 52 Years, MCM
12. Kashmiri Lal s/o Shri Peda Ram, aged 54 years, Electrician HS
13. Sat Dev s/o Shri Lal Singh, aged 42 years, Electrician
14. Madan Lal s/o Shri Lachman Das, aged 44 years, Electrician
15. Gurumukh Chand s/o Shri Sawanram, aged 49 years, Electrician

All applicants posted in the office of Garrison Engineer, MES, Abohar, District Fizilka and resident c/o Sukh Ram s/o Shri Raja Ram, aged 50 years, Fitter Pipe HS r/o P-26/7, MES Colony, Military Station, Abohar, District 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

ORDER (ORAL)

Per Justice K.C.Joshi

The applicants have filed a Misc. Application No.290/00001/2015 for condonation of delay in filing the present OA. Considered the Misc. Application and in the interest of justice, the same is allowed.

2. In the OA, the applicants have prayed for the following reliefs:-

“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 from which they are performing night duty to all the applicants on the basis of actual salary of the applicants from the dates they have been performing night duties 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.”

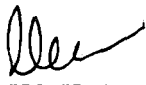
3. So far as prayer regarding pursuing the matter jointly is concerned, since the applicants have approached this Tribunal against a common cause of action, therefore, they are allowed to pursue this OA jointly.

4. 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 No.245/2010 decided on 26.05.2011- Kanti Ballab Joshi and Ors. 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. Therefore, without

discussing the matter in detail, we dispose of this OA 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.

The OA stands disposed of as above with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C. JOSHI)
Judicial Member

R/