BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Tr.Application No.90/86
Tr.Application No.91/86
Tr.Application No.92/86
Tr.Application No.93/86
Tr.Application No.94/86
Tr.Application No.95/86
Tr.Application No.96/86
Tr.Application No.97/86

Devendrakumar Bajpai,
Welder Instructor,
Industrial Training Institute
Silvasa
U.T.Dadra & Nagar Haveli. ... Applicant in Tr.Appln.No.90/86

Rajendrabhai B.Parmar,
Turner Instructor,
Industrial Training Institute,
Silvasa
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.91/86

Ranchodbhai B. Patel,
Wireman Instructor,
Industrial Training Institute,
Silvasa,
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.92/86

Mehboobbhai Ismailbhai Tai,
Electrician Instructor,
Industrial Training Institute
Silvasa,
U.T.of Dadra & Nagar Haveli. ... Applicant in Tr.Appln.No.93/86

Bipinchandra Mohanlal Ankleshwaria
Fitter Turner
Industrial Training Institute
Silvasa,
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.94/86

Rajendrakumar Dhanjibhai Parmar
Electrician Instructor,
Industrial Training Institute,
Silvasa,
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.95/86

Sampatbhai Lallubhai Patel,
Drawing Instructor
Industrial Training Institute
Silvasa,
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.96/86

Devidas Shivdas Vishpute,
Maths Instructor,
Industrial Training Institute,
Silvasa,
U.T.of Dadra and Nagar Haveli. ... Applicant in Tr.Appln.No.97/86

CENTRAL ADMINISTRATIVE TRIBUNAL New Bombay Bench

V/s

1. Union of India
2. The Collector of the Union Territory of Dadra and Nagar Haveli at Silvasa.
3. The Administrator U.T.of Dadra and Nagar Haveli at Silvasa. ... Respondents in all the above applications.

Coram: Hon'ble Member(A)S.P. Mukerji
Hon'ble Member(J)M.B.Mujumdar

Appearance:

1. Mr.D.V.Gangal for the applicant
2. Mr.M.I.Sethna for the Respondents.

ORAL JUDGEMENT Date: 22.12.1986

(Per Member(A)S.P.Mukerji)

By this common order we are disposing of the above mentioned eight Writ Petitions which stood transferred from the High Court of Judicature at Bombay to this Tribunal under Tr.Application Nos.90/86 to 97/86. The brief facts of the case can be narrated as follows:

2. The eight petitioners in the Transferred application nos. shown against them were appointed to the various posts in the Industrial Training Institute at Silvasa in the scale of Rs.380-560 on the dates shown against them as follows:

Case No.	Name	Post	Date of appointment
90/86	Devendrakumar Bajpai	Welder Instructor	3-1-1977
91/86	Rajendrabhai B.Parmar	Turner Instructor	20.11.80
92/86	Ranchhodbhai B.Patel	Wireman Instructor	7.9.1983
93/86	M.I.Tai	Electrician Instructor	17.1.77
94/86	B.M.Ankleshria	Fitter Turner	11.11.77
95/86	R.D.Parmar	Electrician Instructor	21.4.81
96/86	S.L.Patel	Drawing Instructor	20.11.80
97/86	D.S.Vispute	Maths Instructor	30.6.82

Their common grievance is that by the order of 8th August,1979 read with the order of 1-7-74 the posts of Senior and Junior Crafts Instructors were merged in a uniform pay scale of Rs.250-550 w.e.f.27.5.70 and on the recommendation of the Third Pay Commission this pay scale was revised to Rs.440-750 w.e.f. 1.1.1973. Accordingly having been appointed as trade instructors in the various trades their pay scales to which they would have been entitled from their respective date of appointment should be Rs. 440-750 and not Rs. 380-560 which should not survive after 1.1.1973. The respondents have stated that the petitioners in response to advertisements had applied for the respective posts carrying the advertised pay scale of Rs.380-560 and had accepted the posts and as such they are not entitled to claim a higher pay scale. They have also argued that they are not craft vocational instructors but Junior trade Instructors. The respondents have further stated that the Industrial Training Institute in which they are working was established in 1976 and therefore the recommendations of the Pay Commission accepted on from 1.1.73 cannot strictly be applied to these posts. However, the Administrator of the Union Territory of Dadra and Nagar Haveli has conceded that the Administration had recommended the revision of the Pay scale from Rs. 380-560 to Rs. 440-750 for the posts of trade instructors and the Govt.of India finally agreed to the revision but only w.e.f. 1.5.85 in accordance with their letter of 18.7.75. The Administration's proposal to revise the pay scale from the dates of appointment of the petitioners was conditionally accepted by the Govt.of India only if matching savings are found by the Administrator by surrendering some posts. As surrendering of such posts was impossible the petitioners could not be given the revised pay scale earlier than 1.5.85.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents. The opening sentence of the Ministry of Labour's letter of 8th August'79(Ex.'B' to the petition)reads as follows:

"In connection of this Ministry's letter No.DGET-98/74-TA dated the 2nd November,1977 I am directed to say that consequent upon the determination of a uniform pay scale of Rs.250-550 with effect from 27.5.70 vide this Ministry's letter No.DGET-96(1)/72 TA dated 1.7.1974 for the posts of Senior/Junior Craft Instructors Junior Technical Assistant,Store keeper,Maintenance Electrician, Fitter General,Mechinist General Drawing Instructor etc. which has subsequently been revised to the scale of Rs.440-750 w.e.from

1.1.1973 the question as to how the interse seniority of the incumbents of these posts may be fixed has been so considered in consultation with the Department of Personnel"..."

A bare reading of the aforesaid extract will lead to the inenvitable conclusion that the posts of Junior and Senior Craft Instructors had been merged in the common revised pay scale of Rs. 250-550 which was subsequently revised to Rs. 440 -750 w.e.f.1.1.1973. Amongst the posts enumerated in the extract, Senior/Junior Craft Instructors alongwith Fitter General, Drawing Instructors etc.have been mentioned. We have also seen some letters of 1983 also issued in connection with revision of Manual which go to show that the distinction between the Junior and Senior Craft Instructors stood abolished after 1.1.74. Accordingly we have no doubt at all that the posts held by the petitioners as Junior Instructors inthe various trades as also the post of Fitter Turner were purported to be in the common pay scale of Rs. 440/- 750 in accordance with the standardised pattern adopted for such posts in the various Industrial Training Institutes run b y the Central Government throught the country. We are not at all convinced by the bland assertion of the respondents that the orders of the Govt.of India in regard to the revision of pay scale of such Instructors did not apply to the Union Territory of Dadra and Nagar Haveli which is administered entirely by the Govt.of India through the Administrator.

4. The learned counsel for the respondents at our request was good enough to produce before us a copy of the Administrations letter No ITI/Est/1/14/168 of 1.4.86. Some paras of which can be pertinently quoted as follows:

"With reference to the Ministry's letter No.DGET-19(45) /85-TC dt 18.7.85 on the subject cited above, I am directed to state that the Ministry has conveyed the sanction of the president for revision of the pay scale of the Junior Instructor from Rs. 380-12-500-EB-15-560 to Rs.440-20-500-EB-25-700-EB-25-750 w.e.f. 1.5.85 and also to rename the post of Junior Instructor,as Vocational Instructor.

" The Union Territory Administration of Dadra & Nagar Haveli,started Industrial Training Institute in 1976 with

Instructional staff and imparting training in the trades of Fitter,Turner,Electrician,Welder etc.

" The pay scale of Rs. 380-560 was offered to the staff recruited at the time of establishing the ITI. However,C.T.I.Bombay had informed that the scale of Rs.440-750 had been approved by the Govt.of India for the post of Jr.Instructor. The pay scale of Rs. 380-560 adopted by this Administration was intended to be prescribed provisionally as the scale of Rs.440-750 prescribed by Govt.of India was not available with this Administration at the time of starting the Industrial Training Institute be in the year 1976.

" As stated above,the Administration had appointed four Instructors for trades like Fitter,Welder,Electrician and Wireman with effect from 5.11.76,13.12.76,24.1.77 & 25.10.77 respectively. Thereafter,a few posts of Jr.Instructors were also filled up for various trades prior to 1.5.85 except the posts of Turner Instructor and Mech.(M.V.)Instructor as these posts were attached with the pay scale of Rs. 440-750.

" On receipt of Govt.of India's letter under reference dated 18.7.85 this Administration had issued order effecting the revision of pay scales with effect from 1.5.85 of the Officials concerned working on the posts for various trades(copy enclosed) and also taken up the matter to fix their pay in the scale of Rs. 440-750 but anomaly arises in fixation of pay of those senior persons,who are working on the post of Mech.(M.V.)Instructor and Turner Instructor.

" Since the Instructors who are working since 1976 are receiving less pay in comparison to pay being drawn by these two instructors whose post were already attached withthe scale of Rs.440-750. It may be in fitness of things to remove this anomaly in fixation of pay of senior persons. It is necessay therefore tb consider upward revision of the pay scales to Rs. 440-750 from the date of joining the posts by senior Officials."

5. It will thus be clear that the petitioners have been unduly deprived of the pay scale of Rs. 440-750 to which they were entitled in accordanced with the decision taken by the Govt.of India for the Central Govt. and Union Territory employees throughout the country. The Supreme Court held in Randhir Singh V/s Union of India and others 1982(1)SCC 618 that the principle of equal pay for equal work is not an abstract doctrine but one of substance and is deducible from articles 14 and 16 read with article 39(d)of the Constitution of India,and allowed to the Driver

Constables of the Delhi Police Force the pay scale as applicable to the Drivers of the Railway Protection Force and Directed that the scale of pay shall be effective from 1st January,1973 the date from which the recommendations of the pay Commission were given effect to. In the instant case it is established that while the petitioners as Instructors similary placed elsehwere were given the higher pay scale of Rs.440-750 on a standardised pattern from 1.1.73. The plea of the respondents that since the posts held by the petitioners were not in existance on 1.1.1973 the revised pay would not apply merits on consideration. On the other hand there is all the more reason that the petitioners' posts created after 1973 in a category for which the Pay Commission had recommended a specific scale of pay should have been in the revised higher pay scale rather than the lower scale of Rs. 380-560. The feeble plea taken by the Administration that the pay scale of Rs.330-560 was offered as against the standard pay scale of Rs.440-750 because the latter pay scale was not available in the Union Territory pay scale pattern cannot be accepted. There was no Industrial Training Institute in the Union Territory before 1976 and hence the new posts of the Institute had to be given the standard pay scale irrespective of the limited confines of the pay pattern of the Union Territory.

6. The fact that the Govt.of India finally accepted the revised pay scale of Rs.440-750 w.e.f. 1.5.85 puts the seal of justification on the petitioners' cases so far as the revision of pay scale is concerned. The question remaining is why they should not be allowed standard pay scale from the date of their appointment instead of from 1.5.85. From the records as well as from our query from the learned counsel it was not clear to us as to why the particular date 1.5.85 was taken. To us it appears to be an arbitrary date which has neither a historical nor financial nor a logical base. The condition laid down by the Government of India that the revised pay scale can be given earlier than 1.5.85 only if matching savings are found by the Institute is otiose. It will be derogatory to the sovereign status of the Government of India to suppose that its financial commitments to its servants depend on the day to day position of its coffers. We would therefore like to agree with the Administration of Dadra and Nagar Haveli who had themselves proposed in their letter of 1.4.86 quoted above that the standard pay scale should be allowed to the petitioners from the dates of joining the posts. This will also to our mind dispel the anomaly of seniors drawing lesser pay than juniors when the integrated seniority list of Instructors are drawn up.

6. In the facts and circumstances discussed above we allow the aforesaid eight petitions with the direction that the respondents should allow the petitioners the standardised pay of Rs. 440-750 w.e.f. their respective dates of actually joining the posts with all consequential financial benefits. These benefits should be given as far as possible within the next four months. Copies of this order should be placed on all the aforesaid eight petitions.

There will be no orders as to costs.

CENTRAL ADMINISTRATIVE TRIBUNAL New Bombay Bench

True Copy

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CENTRAL ADMINISTRATIVE TRIBUNAL
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Prepared by .....

Compared by .....

2/11/87