

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.892/89, O.A.929/89, O.A.930/89 & O.A.975/89

- | | |
|---|--------------------------------|
| 1. M.A.Sinare & 171 Ors. | .. Applicants in
O.A.892/89 |
| 2. The Scientific Staff
Association | .. Applicants in
O.A.929/89 |
| 3. The Scientific Staff
Association | .. Applicants in
O.A.930/89 |
| 4. Madan Bhaurao Ingalgaonkar
& 9 Ors. | .. Applicants in
O.A.975/89 |

-versus-

Union of India & Ors. .. Respondents.

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri M.R.Kolhatkar, Member(A)

Appearances:

1. Mr.A.G.Abhyankar
Counsel for all the
above 4 applicants.
2. Mr.Sureshkumar
proxy for
Mr.M.I.Sethna
counsel for respondents
in O.A. Nos.892/89 &
O.A.975/89.
3. Mr.R.K.Shetty
Counsel for the
Respondents in
O.A.Nos.929/89 & 930/89.

JUDGMENT:

(Per M.R.Kolhatkar, Member(A))

Date: 21-2-95

As in these four cases the fact situation and reliefs claimed are similar, they are being disposed of together. All these cases essentially relate to the dispute between the Scientific side and the technical side of the Defence Research and Development Organisation and DGI. All the applicants represent either individual members of the staff or the Associations

scientific
of the staff side of these organisations.
They are all aggrieved by the disparities
in the pay scale between scientific side
and the technical side especially conse-
quent on recommendations of the 3rd Pay
Commission. Their main grievance is that
injustice has been done to the staff on
the scientific side vis-a-vis staff on
the technical side even though the scientific
staff is better qualified. The comparative
strength of the ^{two sets of} staff is given on page 18
of O.A.929/89 which is reproduced below :

DRDO AND DGI

<u>Scientific Staff</u>	<u>Technical Staff</u>
SSA - 1513 Nos.	Foremen 389 Nos.
JSA-I 1360 Nos.	Asstt.Foreman 207 Nos.
JSA-II 1138 Nos.	Ch.Gr.I 406 Nos.
	Ch.Gr.II 792 Nos.
	Supervisors 3166 Nos.

The pay scales sanctioned to the staff as a
result of recommendations of successive pay
commission are given at page 11 of the same O.A.
which are shown below:

PAY SCALES RECOMMENDED BY

	I Pay Com.	II Pay Com.	III Pay Com.	IV Pay Com.	Cate gory
Jr.Sc.Ast.II	110 - 200	150 - 300	380-560	1320-2040	Sc.
Supervisor Tech.Gr.III	100 - 185	150 - 240	380-560	1320-2040	Tech.
Jr.Sc.At.I	160 - 330	210 - 425	425-700	1400-2300	Sc.
SupervisorGr.II) Chargeman Gr.II)	150- 225	205-280	425-700	1400-2300	Tech.
Chargeman Gr.I	250-350	335-485	550-750	1600-2660	Tech.
Sr.Sc.Asstt.	250-500	325-575	550-900	1640-2900	Sc.
Asst.Foreman	300-400	370-500	700-900	2000-3200	Tech.
Foreman	360-500	450-650	840-1040	2375-3500	Tech.

What is challenged in all the O.A.'s is the Govt. order dated 11-11-1988 based on the recommendations of Board of Arbitration and the Govt. decision to implement the same w.e.f. 1-1-1988 instead of from 22-8-1982 as recommended by the Board of Arbitration. The recommendation of the Board of Arbitration as well as the Govt. decision have been challenged. They have been challenged by the staff both at the junior level as well as at senior level. They have been challenged by individual members, staff associations and by the staff of some individual Laboratories. We have dealt with the main contentions in our decision relating to O.A. 892/89 and have referred to other OAs only to the extent necessary.

O.A.892/89

In this case there are 172 individual applicants. Applicants are recruited as Sr.Scientific Assistants in the DRDO. The applicants are impugning the Govt. of India O.M. No. 9(1)/85/D/ECC/IC/1 dated 11-11-1988 on the subject of "Fitment of non-industrial workers in pay scales recommended by the 3rd Central Pay Commission." This O.M. purports to convey the sanction of the President to the upgradation of the posts of Senior

Scientific Assistants in DRDO and DGI to the extent given below :

(i)	Existing scale	Revised scale	No. of posts of SSAs to be given the scale in Col. (iii)	
			in DRDO	in DGQA
As per 3rd Pay Commission's Report.	Rs. 550-900	840-1040	822	101
As per 4th Pay Commission's Report.	Rs. 1640-2900	2375-3500		

2. The orders are effective from 1-1-1988. The total number of posts of SSAs in DRDO are stated to 1677 of which 822 posts have been given the benefit of higher pay scale. Similarly 101 out of 247 posts in the DGQA have been given the benefit of revised pay scale. The applicants have challenged the grant of benefit of revised pay scale only to ^aproportion for SSA staff in the respective organisation approximately working out to a little less than 50%. The relief claimed by the applicant² is as below :

"(i) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants who were holding the post of SSA as on 1-1-1973 are entitled for fixation in the scale of 840-1040 as from 1-1-1973 and are entitled to all the benefits of payment of arrears as worked out on the basis of such fixation of salary;

(ii) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants as are recruited or promoted as SSA between 1-1-1973 and 1-1-1986 are

entitled for fixation in the scale of 840-1040 as from their respective dates of recruitment or promotion to the post of SSA and are entitled to all the benefits of payment of arrears of salary arising out of such antedated fixation.

(iii) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants who were promoted to the higher post from SSA between 1-1-1973 and today are entitled for re-fixation of their salary in such higher post on the basis of re-fixation of salary in the SSA scale as effected in terms of (i) or (ii) above as the case may be;

(iv) This Hon'ble Tribunal be pleased to issue a mandatory injunction against the respondents directing them to constitute the necessary machinery to remove and resolve the anomaly which has freshly generated from 1-1-1986 on account of the IV Pay Commission not having taken into account that the basic scale of SSA was 840-1040 and not 550-900 and consequently having placed SSAs below the Assistant Foreman in the salary scale instead of giving them the scale in parity with Foreman and it be further mandated that such exercise of removing the anomaly be completed within 6 months of the orders being passed by this Hon'ble Tribunal. "

3. The applicants have rested their case for the reliefs claimed on the basis of the doctrine of equal pay for equal work and in particular, the case of Savitha.P. vs. Union of India decided by the Supreme Court on 1-5-85

vide AIR 1985 SC 1124. The applicants have given and a detailed historical/organisational background of the fixation of pay scales of the Scientific staff comprising Jr.SA Gr.II, Jr.SA Gr.I and SSA on the one hand and the technical staff comprising Supervisor 'B' / 'A', Chargeman II, Chargeman I, Asstt. Foreman and Foreman on the other. According to the applicants an anomaly has crept into the pay scale allowed to the SSA w.e.f. 1-1-73 consequent on the implementation of the recommendations of the 3rd Pay Commission. In this connection the following table indicates the relative pay scales allotted to SSA, Foreman and Asstt. Foreman.

Category	Pay scales			
	As recommended by the IInd Pay Commission	As recommended by the IIInd Pay Commission	As recommended by the IIIrd Pay Commission	As recommended by the IVth Pay Commission
SSA	250-500	325-575	550-900	1640-2900
Foreman	300-500	450-575	840-1040	2375-3500
Asstt. Foreman	300-400	370-500	700-900	2000-3200

According to the applicants, the maximum of the pay scale of SSA and Foreman used to be essentially equal and the maximum of the Asstt. Foreman's scale was essentially less than that of SSA till the IInd Pay Commission but it was only as a result of the IIIrd Pay Commission that the category of Foreman advanced a march over the category of SSA and in the process Govt. unjustly equated the SSAs to the lower rank of Asstt. Foreman. According to the applicants as such the department had not been reconciled to the pay scale for SSAs as recommended by the IIIrd Pay Commission. In support of this contention a copy of R & D Headquarters

letter dated 30-8-1973 is annexed at page 57 indicating that the matter was taken up with higher authority. Subsequently the matter came to be referred to expert classification committee. Nothing came out of it and ultimately the matter came to be referred to arbitration in terms of JCM scheme. The terms of reference for arbitration were as below:

***Terms of Reference:**

(a) Staff side proposal.

Considering the peculiar and varied nature of work of scientific staff employed in the various, Directorates of the Ministry of Defence and their inter-changeability between the supervisory staff employed in the same or similar establishments under the Ministry of Defence and considering their promotional chances, whether the scientific staff are entitled to the following pay scales and grades structure namely Level-I Rs.380-560 Level-II Rs.425-700, Level-III Rs.550-900, Level-IV Rs.840-1040 and if so in what proportion.

(b) Official Side proposal

Whether the recommendations in respect of non-industrial jobs should have been made by the E.C.C. and thereafter accepted by the Government especially when the III Pay Commission had merely authorised the Expert Classification Committee to undertake evaluation and consequent revision of pay scales of industrial jobs only.

Category of employees and number affected:

Scientific staff under the Ministry of Defence. Approximate No. 6,400.

AWARD

(1)(a) The demand of the staff side for the grant of pay scale of Rs.840-1040 to senior scientific Assistant and Draughtman working in the Research and Development Organisation and the Directorate General of Inspection (both in the Ministry of Defence) is accepted. This pay will be in addition to those which are already admissible to the categories in the said two organisations.

(b) The preparation of posts to be allocated in the above mentioned new pay scale should broadly bear the same proportion as that obtaining at present in the Foreman Category vis-a-vis the highest grade of Assistant Foreman in the said organisations.

(c)

2.

3.

4. This award will come into operation with effect from the 22nd September, 1982.

Sd/-	Sd/-	Sd/-
Begaram Tulpule	R.D.Thopar	Justice M.L.Jain
Member, Staff Side	Member	Chairman 12.8.85
	Official	

3. It would be thus seen that in terms of this award, the impugned O.M. dated 11-11-88 was issued. Although the arbitration award recommended the implementation of the award from 22-9-1982 the Govt. issued orders to implement the same w.e.f. 1-1-1988. The applicants have challenged the date of implementation of the award as well as whether the revision of the pay scale could be confined only to about 50% of the staff rather than allowing the revision to 100% staff.

4. The prayers of the applicants have been opposed by the respondents. So far as the date of implementation of the award is concerned it was pointed out to us by the counsel for the respondents that the matter is no longer res-integra because the issues had been taken up in different benches of the Tribunal, Bombay Bench taking one view and upholding the notification and the Madras Bench and Principal Bench taking another view. But the Supreme Court in their decision dated 18-3-1994 in Civil Appeal No.2130/94 have finally upheld the action of the Govt. in notifying^a different date for the implementation of the award than the date proposed in the award itself, since such a modification had approval of both the houses of Parliament. In the Supreme Court the matter was argued essentially on the interpretation of the scheme of the arbitration and the competence of the Govt. to modify the date of effect of^{arbitration award} with the approval of the Parliament. The ^{other} various issues raised by the applicants in terms however, were not raised before the Supreme Court and were as such not considered.

5. The learned counsel for the applicant states that their claim for grant of revised pay scale is from 1-1-73 i.e. the date from which the recommendation of IIIrd Pay Commission came into force. The Counsel for the respondents would argue that such^a relief is time barred but the counsel for the applicants would argue that the claim

is not time barred because it was only after announcement of the arbitration award and the government notification incorporating ^{its} decision on the arbitration ^{that} award/they would have an opportunity of challenging the Govt. action. In our view, the argument of the applicants would fly in the face of the scheme of JCM. The purpose of the scheme of JCM is to establish industrial peace. The Govt. as well as the Staff Associations/Unions participating in the Scheme are required to subscribe a Declaration of Joint Intent which, inter alia, provides for abjuration of agitational methods by the Staff Unions/Associations for redressal of their grievances. Para 21 of the scheme quoted in the Supreme Court judgment states that "Subject to the overriding authority of Parliament, recommendations of the Board of Arbitration will be binding on both sides." According to us, the Supreme Court decision is binding on both the sides so far as date of implementation of the award is concerned. In our view, therefore, it is not open for us to entertain the claim of the applicants that they can re-agitate the issue of grant of revised pay scales from 1-1-73 instead of 1-1-88 which has been announced by the Govt. and which has been confirmed by the Supreme Court.

6. The learned counsel for the respondents would thereafter argue that if the relief relating to the date of revision of pay scale

cannot be granted to the applicants, then most of the applicants would be out of the court because most of these SSAs have already been promoted to various higher grades and the question of grant of any relief to them would not arise. We, however, propose to consider the matter further on the footing that to the extent there are atleast some SSAs who are left out of the benefit of the revised pay scale as on 1-1-88, whether they are entitled to any relief.

7. Learned counsel for the respondents argued that the applicants are bound not only to the date of implementation of the award but also to the terms of Arbitration award that a particular proportion alone should be given higher pay scale and the applicants cannot re-agitate that issue. Here the counsel for the applicant relies on the judgment of the Calcutta Bench of this Tribunal which had gone into the question of reasonableness of the award and which set aside the arbitral award on the ground of its going beyond terms of reference and which action was upheld by the Supreme Court vide the case of ^{S.C.} Union of India v. Santiram Ghosh & Ors. 1989/ILLJ 153. The proposition propounded is that the Tribunal has powers to examine the recommendations of the Board of Arbitration with reference to the terms of reference of Board of Arbitration. In that case the terms of reference of the Board of Arbitrators were as follows:-

"Whether the posts of Scientific
Assistant of the Botanical Survey

of India should be allocated the revised scale of Rs.550-900 in terms of Third Pay Commission's recommendations effective from January 1, 1973."

5. The Board of Arbitrators made the following award:

"All the Scientific Assistants who are continuing as Scientific Assistants since January 1, 1973 and who possess the prescribed qualification for Level I, i.e. M.Sc./First Class B.Sc. (Hons.)/second class/B.Sc. with 3 years' experience shall be placed in the scale of Rs.550-900 with immediate effect i.e. the date of this award and shall be deemed to be automatically absorbed in the grade of Senior Scientific Assistants, irrespective of the fact whether there are vacancies in the grade or not.

Government is further directed to frame proper Recruitment Rules for the posts of Senior Scientific Assistant Level I and Scientific Assistant Level II at the earliest in accordance with the recommendations of the Third Pay Commission after taking into consideration the qualifications prescribed for both levels so that in future the manning of the majority of the posts in these grades is by direct recruitment and rest by promotion from the next lower level. "

8. Thus under the terms of reference the Board of Arbitrators was only to consider whether Scientific Assistants of Botanical Survey of India were entitled to pay scale of Rs-550-900. Under the terms of reference there was no scope for prescribing two levels of scale of pay and the minimum qualifications for each level. There was also

recommended the examination of job content and on that basis considered the the division of posts of Scientific Assistants into Level-I and Level II but the basic recommendation of the Pay Commission was to allow the benefit of pay scale of Rs.550-900 to the Scientific Assistants as such and the Tribunal gave the recommendations of the benefit of the Pay Commission to this category, with which we are concerned, In this particular case the Board of Arbitrators was appointed precisely because the recommendation of the IIIrd Pay Commission as to pay scale was not acceptable to the staff side and therefore the matter passed through a laborious process of negotiations and deliberation by expert classification committee. In our view therefore the Santiram Ghosh case is not applicable. Moreover we do not find on the facts that the Board of Arbitrators in the instant case can be said to have travelled beyond its terms of reference. ~~limit~~. It may not have covered all the levels of staff but the levels of staff with which it dealt stood referred to the Board and therefore the levels of staff about which it did not make specific recommendation would be deemed to have been passed over by the Board. Thus the Board of Arbitrators can be said to have rejected these remaining demands and about this action there can be no quarrel.

9. The counsel for the applicant would urge that another ground for setting aside the arbitral award is that it violates the constitutional guarantee of equality enshrined

directive principle
in the doctrine of equal pay for equal
work read with Articles 14 and 16 of the
Constitution. In this connection he relies on
the case of Savita.P. referred to above.
In the case of Savita.P. the action of the
Govt. in placing a portion of the existing
Draftsmen in the higher revised pay scale
of Rs.425-700 on the basis of seniority
alone was held to be unconstitutional.
The Supreme Court held that ^{it is} the classi-
fication of the Senior Draftsmen into two
groups that is responsible for the higher
pay. For this classifications, the Govt.
must be able to satisfy the Court of
certain other tests which are non-existent,
in this case, since it is not in dispute
that Senior Draftsmen, belonging to the
two divisions, do equal and same work. The
counsel for the applicant would urge that
about 50% of the SSAs who ^{would be} ~~was~~ enjoying
the benefit of revised pay would continue
to do the same work as the remaining 50%
of the SSAs who have been denied the higher
pay scale. He would therefore urge that this
Tribunal should set aside the arbitration
award and direct the Govt. to give the
revised pay scale to all the SSAs in service
as on 1-1-1988 ^{even} if the Tribunal is not able to
grant this benefit to them from 1-1-73 as
urged by applicants.

10. The counsel for the respondents
in this connection invites our attention
to subsequent judgments of the Supreme Court

and in particular the judgment in Shri Jaghnath v. Union of India and another, JT 1991(4)SC 238. In that case the Govt. of India had divided the existing cadre of Compositors into Compositors Grade-I(Rs.150-206) and Compositors Grade II (Rs.110-180) and ^{it} was decided that Compositors Grade-I would be classified as "highly skilled" and Compositors Grade II as "skilled". The ratio of Grade-I to Grade II was fixed as 20:80. The initial constitution of the cadre of Compositors Grade-I was done by appointing 20% of the Compositors on the basis of seniority-cum-fitness but trade test was made obligatory for further promotions to Grade-I. In para 6 of the judgment the Hon'ble Supreme Court stated that:

"Academic pursuit and experience are two primary sources of learning. A Compositor's job in a printing press is a skilled job requiring special technique. In such a job it would be reasonable to measure the standards of skill by length of experience. The High Court, in our view, fell into error in quashing the classification based on experience arising out of length of service."

11. It is not disputed that the claim of SSAs who belong to Scientific cadre is for parity with the technical cadre to which Asstt.Foreman and Foreman belong. It was in this background that after protracted deliberations and negotiations the matter stood referred to Board of Arbitration for a final decision and the Board of Arbitration decided to give the higher revised scale to the Sr.SSAs in the same proportion on the date of award ^{as that} between

Foremen and Asstt. Foremen on Technical side in the concerned organisation i.e. DRDO and DGI. According to us, although Savita's judgment proceeds on the undiluted doctrine of equal pay for equal work, there has been further evolution of the doctrine as revealed by the Supreme Court judgment in Jaghnath V. Union of India. It is now well settled that several factors are required to be gone into before fixing the pay scale and one of the relevant factors is the historical background in which a particular decision relating to pay fixation is taken. In our view, keeping in view the ratio of Jaghnath's case and keeping in view the background of the whole dispute and keeping in view the nature of the JCM scheme in which the staff association as well as individual members of staff are required to be held to the binding nature of the arbitration award with its modified date of implementation as confirmed by Supreme Court, the Tribunal should be chary before unsettling settled issues, especially after protracted litigation. There should be a finality to such disputes. The question of relativities in the pay scales of different cadres, in the present case between technical and scientific cadres of the DRDO and DGI is essentially a matter for expert bodies and even after the implementation of the award, if there are any disputes still to be resolved, they are required to be resolved by making appropriate representations to the Vth Pay Commission which is at present going into the question of revision of pay scale of Central Govt. staff.

We are therefore not satisfied that this is a fit case in which we should interfere. We have already given the reasons as to why the various contentions raised by the applicants in support of their prayers cannot be accepted on a survey of administrative - legal grounds. We therefore dispose of this O.A. by passing the following order :

O R D E R

O.A. is dismissed. There will be no order as to costs.

O.A.929/89

This application is filed by The Scientific Staff Association viz. an association of the Non-gazetted non-industrial Scientific staff working under Director, Armament Research & Development Estt., Pashan and Director, Explosives Research & Development Laboratory Estt., Pashan & one Rajan Manohar Kale, an individual member of the Association. The main reliefs claimed in this application are in relation to the category of Junior Scientific Assistants Gr.I and Gr.II whose grievance according to the applicants have altogether been ignored by the Board of Arbitration. We have considered this aspect in relation to terms of Reference of Arbitration Board. For the reasons given in O.A. 892/89 we find no substance in the various prayers and O.A. is accordingly dismissed with no order as to costs.

O.A.930/89

This O.A. has been ~~nd~~ filed by the Association referred to in O.A.929/89. No individual member has been joined as applicant. The main prayers relate to the category of staff belonging to Sr.Scientific Assistants and otherwise the prayers are in para materia with prayers reproduced. For the reasons given in O.A. 892/89 we find no substance in the various prayers and ^{the} O.A. is accordingly dismissed with no order as to costs.

O.A.975/89

This O.A. has been filed by M.B.Ingalgaonkar and nine ors. who are working as Scientific Officers in the Institute of Armament and Techonology in Pune. The main prayers relate to SSAs and are para materia with the prayers referred to in O.A. 892/89. For the reasons given in O.A.892/89 we find no merit in this O.A. which is dismissed with no order as to costs.

(M.R.KOLHATKAR)
Member(A)

(B.S.HEGDE)
Member(J)

M

same as 930/89
as seen leave granted
by Hon. P. P. Dispen

J-II Section

ut. 28-05-96.

SUPREME COURT ORDERS/DIRECTION

IN
ORIGINAL APPLICATION NO. 929/89.

~~TRANSFERRED TO THE JUDGE IN CHARGE~~

Supreme Court letter No. D.1245/95/Sec.IX,
dated 26th April 96 (flag 'A'), enclosing therewith
certified copy of Judgement/Order dated 12-02-96 (flag 'B')
is placed below for perusal please. Lodgment note is being
issued.

28/05/96

SECTION OFFICER:

DEPUTY REGISTRAR:

REGISTRAR:

HON'BLE VICE CHAIRMAN, SHRI JUSTICE

✓ HON'BLE MEMBER (J), SHRI B.S. HEGDE:

✓ HON'BLE MEMBER (A), SHRI M.R. KOLHATKAR:

HON'BLE MEMBER (A), SHRI P.P. SRIVASTAVA:

For Office Information/Note:

- ✓ 1. Entry in O.A./T.A. Register.
- ✓ 2. Proforma for circulation to other Benches.
- ✓ 3. Circulation.
- ✓ 4. Notices to parties of Lodgment.
5. Acknowledgement received and submitted Sup. Court.
- X 6. Preparation for Record & Proceedings.
- X 7. Dispatching R/P to Supreme Court.

All communications should be addressed to the Registrar, Supreme Court, by designation. NOT by name. Telegraphic address :— "SUPREMECO"

No.

D.No.1245/95/Sec.IX
SUPREME COURT
INDIA

Dated New Delhi, the 28th April, 1996 19
28th

FROM

The Additional Registrar,
Supreme Court of India,
New Delhi.

TO

The Registrar,
Central Administrative Tribunal,
Bombay Bench, Gulestan Building No.6,
3rd-4th Floor, Prescott Road,
Fort,
Bombay-400 001.

CIVIL APPEAL NO.3339 OF 1996

(From the Judgment and Order dated 21st February, 1995 in O.A.No.930 of 1980 in Central Administrative Tribunal, Bombay).

Scientific Staff Association

..Appellant

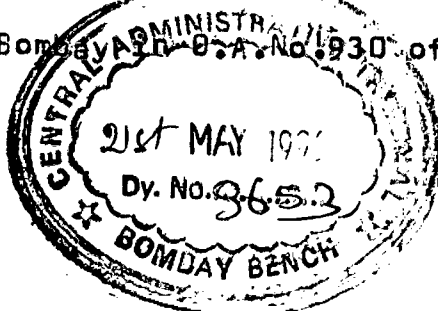
-Vs-

Union of India & Ors.

..Respondents

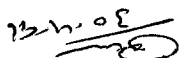
Sir,

I am directed to forward herewith for your information and record a certified copy of the each of the Petition for Special Leave to Appeal filed by the Appellant above-named in this Registry on the 10th July, 1995 and taken on record as Petition of appeal pursuant to this Court's Order dated the 12th February, 1995 (certified copy of Court's proceeding enclosed) granting Special Leave to Appeal to the Appellant above-named from the Judgment and Order dated the 21st February, 1995 of the Central Administrative Tribunal, Bombay in O.A.No.930 of 1980.



You may now as required by Rule 11 of Order XV, S.C.M. 1966, cause the enclosed Notice of Lodgment of Appeal to be served on all the Respondent Nos. 1 to 4 and transmit to this Court a certificate as to the date or dates on which the said notice has been served. Regarding preparation of the appeal record, I am to inform you that this Court by its Order dated the 12th February, 1996 has been pleased to dispense with the preparation of the appeal record and has directed that the appeal above-mentioned be heard on the paper books prepared for hearing of the Petition for Special Leave to Appeal. The hearing of appeal be expedited. As such no steps are required to be taken by you at your end for the preparation of the appeal record.

Yours faithfully,



for Additional Registrar

for verification registered

your attention

your and for the preparation of the subject record.
As such no steps are required to be taken by you as
leave to absent. The passing of subject as expected.
books prepared for passing of the subject for subject
that the subject above-mentioned be passed on the paper
the preparation of the subject record and be directed
15th February, 1950 has been directed to observe with
to inform you that this could be the other dated the

preparation of the subject record. I am
date of date on which the said notice has been served.
and forward to this court a certificate as to the
absent to be served on all the respondents not to a
to forward to court the enclosed notice of judgment of

you may now be required by the court to be served by

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

83376

Petition(s) for Special Leave to Appeal (Civil) No.16856/95
(From the judgement and order dated 21/02/95 in OA 930/89
of the CAT.Bombay Bench)

SCIENTIFIC STAFF ASSON.

Petitioner (s)

VERSUS

U O 1 & ORS

Respondent (s)

(With Appln(s). for stay) (With O.)
With

SLP(Civil)No.17585/95

Date : 12/02/96 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.P. SINGH
HON'BLE MR. JUSTICE S.C. SEN

Certified to be true copy

F. M. M. N.

Assistant Registrar (Judl.)

.....12/2/96

Supreme Court of India

For Petitioner (s)

Dr.Rajeev Dhawan, Sr. Adv.
Mr.Raju Ramachandran, Adv.
Mr.M.D.Adkar, Adv.
Mr.S.D.Singh, Adv.
Mr.Ejaz Maqbool, Adv.

For Respondent (s)

Mr.K.N.Shukla, Sr. Adv.
Ms.Indra Sawhney, Adv.,
Ms.Anil Katiyar, Adv.

UPON hearing counsel the Court made the following
O R D E R

From the Office report it appears that the service
is complete.

Leave granted.

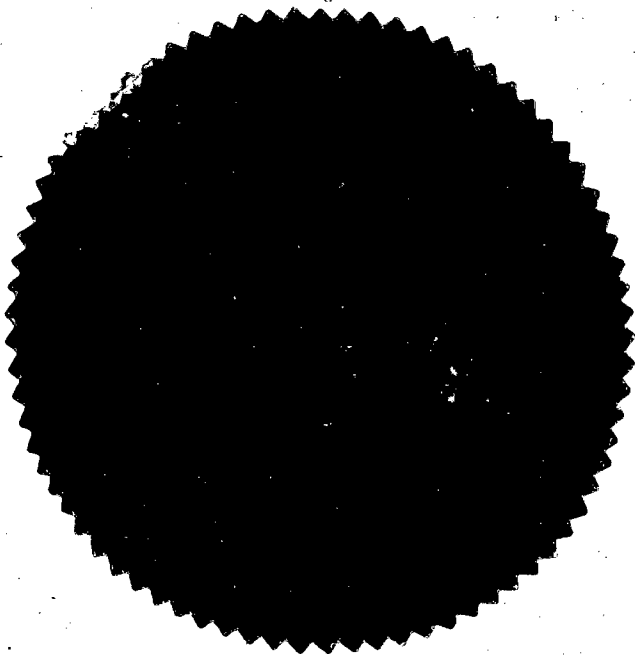
Printing dispensed with.

Hearing be expedited.

(S. Sarangi)
Court Master

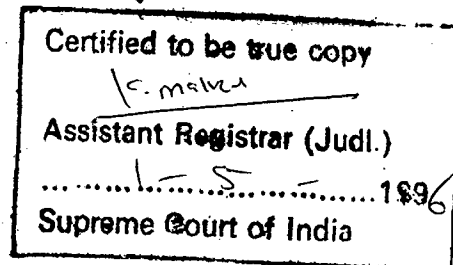
(N. Moorjani)
Court Master

19/2/96
S. Sarangi
13/2



MAILED IN MY PRESENCE

7/5/96.



83375

CA 3339/96

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO. 17585/1995

From and against the judgement and order passed by the
Hon'ble Central Administrative Tribunal in Original
Application No. 929 of 1989 dated 21-2-1995.

IN THE MATTER OF:-

Scientific Staff Association

...Petitioner

Versus

Union of India & Ors.

...Respondents

P A P E R B O O K
W i t h

1. I.A. No. _____/1995: APPLICATION FOR EXEMPTION FROM
FILING CERTIFIED COPY OF THE
IMPUGNED JUDGEMENT AND ORDER
2. I.A. No. _____/1995: APPLICATION FOR INTERIM RELIEF

(FOR INDEX KINDLY SEE INSIDE)

it has come on record

ADVOCATE ON RECORD FOR THE PETITIONER: EJAZ MAQBOOL

I N D E X

Srl.No.	Particulars	Page Nos
1.	Office report on Limitation	A
2.	List of Dates & Events	B - E
3.	Memo of Parties	F
4.	A copy of the judgement and order passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989 dated 21-2-1995.	1 - 19.
5.	Special Leave Petition with Affidavit	20 - 40
6.	Application for exemption from filing certified copy of the impugned judgement and order.	41 - 43
7.	Application for Interim Relief	44 - 46
8.	Counter Affidavit	47 -

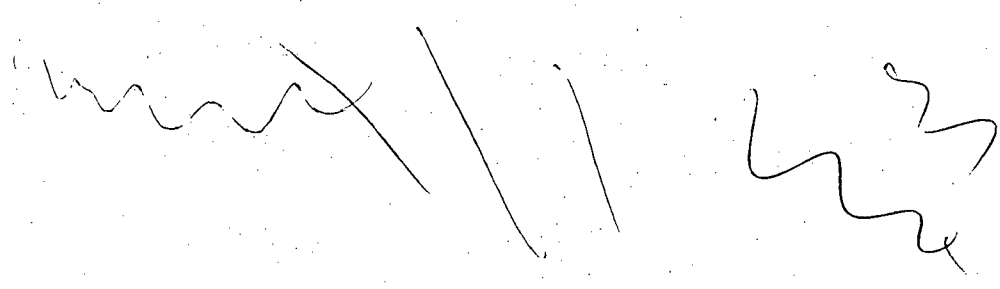
LIST OF DATES AND EVENTS

The petitioner Association represents interests of staff members working with different research laboratories under the Defence Research and Development Organization, under the Ministry of Defence.

The Junior Scientific Assistants with whom the petitioner is concerned in the present matter are non-gazetted and non-industrial employees of the research laboratories under the Defence Research and Development Organization. It may be pointed out that the laboratories have a cadre of scientific service employees and there are different posts in the hierarchy. The laboratories as well have a separate cadre of technical services

1973: Since the year 1973 the pay scale of Junior Scientific Assistants lagged behind all the equivalent posts and inspite the grievance made from time to time justice was not done and for that reason the petitioner was compelled to approach the learned Central Administrative Tribunal, Bombay.

1979: In the year 1979 the Expert Classification Committee issued a report. The relevant finding of the said report is as follows:-



(a) There was intermixing of the technical and scientific staff and the jobs in two categories co-exist without distinct demarcation of duties.

(b) Persons doing the same nature of job and holding same qualifications were receiving different rates of pay merely due to different designations.

(c) There was a clear and palpable departure from the principle of equal pay for equal work and this was a major source of discontent among the staff.

(d) There was discrimination which was primarily the result of having two job categories for the same type of work.

(e) Identical jobs performed by technical and scientific staff are treated with disparity in an unwarranted manner.

1983: The petitioner submits that inspite of this the matter of disparity was not attended to inter alia this issue was raised in joint consultative machinery. However, issues could not be resolved in Joint Consultative Machinery and, therefore, in the year 1983 the matter was referred to the Board of Arbitration.

D

3

12-5-1995: The Board of Arbitration after hearing the parties pronounced its award on 12-5-1995. However, inspite of specific prayer to consider the pay scales of junior scientific assistants the Board decided the same against the petitioner.

21-2-1995: Aggrieved by the action of the respondents in not bringing parity in the pay scales the petitioner approached the learned Central Administrative Tribunal, Bombay filed O.A. No. 929 of 1989. The Hon'ble Tribunal by its judgement and order dated 21-2-1995 was pleased to dismiss the application preferred by the petitioner association.

10-7-1995: Aggrieved by the judgement and order dated 21-2-1995 passed by the Hon'ble Central Administrative Tribunal, Bombay rendered in O.A. No. 929 of 1989, the petitioner is filing the present special leave petition in this Hon'ble Court on the following amongst other grounds which are taken without prejudice to one another.

A. The petitioner respectfully states and submits that the respondents committed error while disturbing parity between Scientific Staff and the Technical Staff which was more or less maintained till the second Pay Commission.

B. The Petitioner submits that the Hon'ble Tribunal failed to appreciate that inspite of a specific prayer to do justice in the matter of Junior Scientific Assistants neither the Joint Consultative Machinery nor the Board of Arbitration decided the matter and, therefore, the Hon'ble Tribunal should have decided the grievance of the Petitioners.

C. The petitioner respectfully states and ;submits that from the material produced by the petitioner it is clear that parity between the Scientific and technical staff should have been maintained and rather the job content of Scientific staff is of more responsibility and inspite of that the Scientific staff and, particularly, the Junior Scientific Assistants are denied the parity.

The petitioner is filing the present special leave petition in this Hon'ble Court on several other grounds also.

MEMO OF PARTES AS BEFORE THE HON'BLE

CENTRAL ADMINISTRATIVE TRIBUNAL

IN THE MATTER OF:-

Scientific Staff Association
(An Association of the
Non-gazetted, Non-Industrial
Scientific Staff Working in the
Defence Research and Development
Organization under the Ministry of
Defence under Control of the
Respondents at Pune in ARDE & ERDL,
Pashan) With the office of the
Association at ARDE, Pashan, Pune - 21
Represented by D.M. Shaikh its
General Secretary.

...Petitioners

Versus

1. Union of India
Secretary
Ministry of Defence
New Delhi.
2. Scientific Adviser to
the Ministry of Defence
New Delhi.
3. The Director
Armament Research and
Development Establishment
Armament Post,
Pashan, Pune - 21.
4. The Director
Explosives Research and
Development Laboratory
Pashan, Pune - 21

...Respondents

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.892/89, O.A.929/89, O.A.930/89 & O.A.975/89

1. M.A.Sinare & 171 Ors. .. Applicants in O.A.892/89
2. The Scientific Staff Association .. Applicants in O.A.929/89
3. The Scientific Staff Association .. Applicants in O.A.930/89
4. Madan Bhauroo Ingalgaoonkar & 9 Ors. .. Applicants in O.A.975/89

-versus-

Union of India & Ors. .. Respondents..

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri M.R.Kolhatkar, Member(A)

Appearances:

1. Mr.A.G.Abhyankar
Counsel for all the
above 4 applicants.
2. Mr.Sureshkumar
proxy for
Mr.M.I.Sethna
counsel for respondents
in O.A. Nos.892/89 &
O.A.975/89.
3. Mr.R.K.Shetty
Counsel for the
Respondents in
O.A.Nos.929/89 & 930/89.

JUDGMENT:

(Per M.R.Kolhatkar, Member(A))

Date: 21-12-85

As in these four cases the fact situation and reliefs claimed are similar, they are being disposed of together. All these cases essentially relate to the dispute between the Scientific side and the technical side of the Defence Research and Development Organisation and DGI. All the applicants represent either individual members of the staff or the Associations



scientific
of the staff side of these organisations.
They are all aggrieved by the disparities
in the pay scale between scientific side
and the technical side especially conse-
quent on recommendations of the 3rd Pay
Commission. Their main grievance is that
injustice has been done to the staff on
the scientific side vis-a-vis staff on
the technical side even though the scientific
staff is better qualified. The comparative
strength of the ^{two sets of} staff is given on page 18
of O.A.929/89 which is reproduced below :

DRDO AND DGI

Scientific Staff

Technical Staff

SSA - 1513 Nos.	Foremen 389 Nos.
JSA-I 1360 Nos.	Asstt. Foreman 207 Nos.
JSA-II 1138 Nos.	Ch.Gr.I 406 Nos.
	Ch.Gr.II 792 Nos.
	Supervisors 3165 Nos.

The pay scales sanctioned to the staff as a
result of recommendations of successive pay
commissions are given at page 11 of the same O.A.
which are shown below:

PAY SCALES RECOMMENDED BY

I Pay Com. II Pay Com. III Pay Com. IV Pay Com. Category

Jr.Sc.Ast.II	110 - 200	150 - 300	380-560	1320-2040 Sc.
Supervisor Tech.Gr.III	100 - 185	150 - 240	380-560	1320-2040 Tech.
Jr.Sc.At.I	160 - 330	210 - 425	425-700	1400-2300 Sc.
Supervisor Gr.II) Chargeman Gr.II)	150- 225	205-280	425-700	1400-2300 Tech.
Chargeman Gr.I	250-350	335-485	550-750	1600-2660 Tech.
Sr.Sc.Asstt.	250-500	325-575	550-900	1640-2900 Sc.
Asst.Foreman	300-400	370-500	700-900	2000-3200 Tech.
Foreman	360-500	450-650	840-1040	2375-3500 Tech.

What is challenged in all the O.A.¹⁵ is the Govt. order dated 11-11-1988 based on the recommendations of Board of Arbitration and the Govt. decision to implement the same w.e.f. 1-1-1988 instead of from 22-8-1982 as recommended by the Board of Arbitration. The recommendation of the Board of Arbitration as well as the Govt. decision have been challenged. They have been challenged by the staff both at the junior level as well as at senior level. They have been challenged by individual members, staff associations and by the staff of some individual Laboratories. We have dealt with the main contentions in our decision relating to O.A. 892/89 and have referred to other OAs only to the extent necessary.

O.A. 892/89

In this case there are 172 individual applicants. Applicants are recruited as Scientific Assistants in the DADO. The applicants are impugning the Govt. of India O.M. No. 9(1)/85/D/ECC/IC/1 dated 11-11-1988 on the subject of "Fitment of non-industrial workers in pay scales recommended by the 3rd Central Pay Commission." This O.M. purports to convey the sanction of the President to the upgradation of the posts of Senior

Scientific Assistants in DRDO and DGI to the extent given below :

(i)	Existing scale	Revised scale	No. of posts of SSAs to be given the scale in Col. (iii)	
			in DRDO	in DGI
As per 3rd Pay Commission's Report.	Rs. 550-900	840-1040	822	101
As per 4th Pay Commission's Report.	Rs. 1640-2900	2375-3500		

2. The orders are effective from 1-1-1988. The total number of posts of SSAs in DRDO are stated to 1677 of which 822 posts have been given the benefit of higher pay scale. Similarly 101 out of 247 posts in the DGI have been given the benefit of revised pay scale. The applicants have challenged the grant of benefit of revised pay scale only to ^aproportion for SSA staff in the respective organisations approximately working out to a little less than 50%. The relief claimed by the applicants is as below :

(i) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants who were holding the post of SSA as on 1-1-1973 are entitled for fixation in the scale of 840-1040 as from 1-1-1973 and are entitled to all the benefits of payment of arrears as worked out on the basis of such fixation of salary;

(ii) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants as are recruited or promoted as SSA between 1-1-1973 and 1-1-1986 are

entitled for fixation in the scale of 840-1040 as from their respective dates of recruitment or promotion to the post of SSA and are entitled to all the benefits of payment of arrears of salary arising out of such antedated fixation.

(iii) This Hon'ble Tribunal be pleased to hold and declare that such of the applicants who were promoted to the higher post from SSA between 1-1-1973 and today are entitled for refixation of their salary in such higher post on the basis of refixation of salary in the SSA scale as effected in terms of (i) or (ii) above as the case may be;

(iv) This Hon'ble Tribunal be pleased to issue a mandatory injunction against the respondents directing them to constitute the necessary machinery to remove and resolve the anomaly which has freshly generated from 1-1-1986 on account of the IV Pay Commission not having taken into account that the basic scale of SSA was 840-1040 and not 550-900 and consequently having placed SSAs below the Assistant Foreman in the salary scale instead of giving them the scale in parity with Foreman and it be further mandated that such exercise of removing the anomaly be completed within 6 months of the orders being passed by this Hon'ble Tribunal. "

3. The applicants have rested their case for the reliefs claimed on the basis of the doctrine of equal pay for equal work and in particular, the case of Savitha.P. vs. Union of India decided by the Supreme Court on 1-5-85



Savitha
on

vide AIR 1985 SC 1124. The applicants have given
and
a detailed historical/organisational background
of the fixation of pay scales of the Scientific
staff comprising Jr.SA Gr.II, Jr.SA Gr.I and
SSA on the one hand and the technical staff
and
comprising Supervisor 'B'/'A', Chargeman II,
Chargeman I, Asstt. Foreman and Foreman on the
other. According to the applicants an anomaly
has crept into the pay scale allowed to the
SSA w.e.f. 1-1-73 consequent on the implemen-
tation of the recommendations of the 3rd Pay
Commission. In this connection the following
table indicates the relative pay scales
allotted to SSA, Foreman and Asstt. Foreman.

Category	Pay scales As recommended by the Consecutive Pay Commi- ssion			
	Ist Pay Commisn.	II pay Comm.	III Pay Comm.	IV Pay Comm.
SSA	250-500	315-575	550-900	1640-2900
Foreman	300-500	450-575	840-1040	2375-3500
Asstt. Foreman	300-400	370-500	700-900	2000-3200

According to the applicants, the maximum of the
pay scale of SSA and Foreman used to be essentially
equal and the maximum of the Asstt. Foreman's scale
less than
was essentially that of SSA till the IIInd Pay
Commission but it was only as a result of
that the IIIrd Pay
Commission the category of Foreman advanced a march
over the category of SSA and in the process Govt.
unjustly equated the SSAs to the lower rank
of Asstt. Foreman. According to the applicants
as such
the department had not been reconciled to the pay scale
for SSAs as recommended by the IIIrd Pay Commission.
contention
In support of this a copy of R & D Headquarters

letter dated 30-8-1973 is annexed at page 57 indicating that the matter was taken up with higher authority. Subsequently the matter came to be referred to expert classification committee. Nothing came out of it and ultimately the matter came to be referred to arbitration in terms of JCM scheme. The terms of reference for arbitration were as below:

For entire Scientific staff - PP

Terms of Reference:

(a) Staff side proposal.

Considering the peculiar and varied nature of work of scientific staff employed in the various, Directorates of the Ministry of Defence and their inter-changeability between the supervisory staff employed in the same or similar establishments under the Ministry of Defence and considering their promotional chances, whether the scientific staff are entitled to the following pay scales and grades structure namely Level-I Rs.380-560 Level-II Rs.425-700, Level-III Rs.550-900, Level-IV Rs.840-1040 and if so in what proportion.

(b) Official Side proposal

Whether the recommendations in respect of non-industrial jobs should have been made by the E.C.C. and thereafter accepted by the Government especially when the III Pay Commission had merely authorised the Expert Classification Committee to undertake evaluation and consequent revision of pay scales of industrial jobs only.

Category of employees and number affected:

Scientific staff under the Ministry of Defence. Approximate No. 6,400.

AWARD

(1)(a) The demand of the staff side for the grant of pay scale of Rs. 840-1040 to senior scientific assistant and Draftsman working in the Research and Development Organisation and the Directorate General of Inspection (both in the Ministry of Defence) is accepted. This pay will be in addition to those which are already admissible to the categories in the said two organisations.

no award for JSAs

(b) The preparation of posts to be allocated in the above mentioned new pay scale should broadly bear the same proportion as that obtaining at present in the Foreman Category vis-a-vis the highest grade of Assistant Foreman in the said organisations.

(c)

2.

3.

4. This award will come into operation with effect from the 22nd September, 1982.

Sd/-	Sd/-	Sd/-
Begaram Tulpule	K.D. Thopar	Justice M.L. Jain
Member, Staff Side	Member	Chairman 12.8.85
	Official	

3. It would be thus seen that in terms of this award, the impugned O.M. dated 11-11-88 was issued. Although the arbitration award recommended the implementation of the award from 22-9-1982 the Govt. issued orders to implement the same w.e.f. 1-1-1988. The applicants have challenged the date of implementation of the award as well as whether the revision of the pay scale could be confined only to about 50% of the staff rather than allowing the revision to 100% staff.

4. The prayers of the applicants have been opposed by the respondents. So far as the date of implementation of the award is concerned it was pointed out to us by the counsel for the respondents that the matter is no longer res-integra because the issues had been taken up in different benches of the Tribunal, Bombay Bench taking one view and upholding the notification and the Madras Bench and Principal Bench taking another view. But the Supreme Court in their decision dated 18-3-1994 in Civil Appeal No.2130/94 have finally upheld the action of the Govt. in notifying a different date for the implementation of the award than the date proposed in the award itself, since such a modification had approval of both the houses of Parliament.



In the Supreme Court the matter was argued essentially on the interpretation of the scheme of the arbitration and the competence of the Govt. to modify the date of effect of ^{arbitration award} with the approval of the Parliament. The ^{other} various issues raised by the applicants ^{in terms} however, were not raised before the Supreme Court and were as such not considered.

SC Final
for date of
Implementation

5. The learned counsel for the applicant states that their claim for grant of revised pay scale is from 1-1-73 i.e. the date from which the recommendation of 11th Pay Commission came into force. The Counsel for the respondents would argue that such ^a relief is time barred but the counsel for the applicants would argue that the claim

is not time barred because it was only after announcement of the arbitration award and the government notification incorporating ^{its} decision on the arbitration ^{that} award they would have an opportunity of challenging the Govt. action. In our view, the argument of the applicants would fly in the face of the scheme of JCM. The purpose of the scheme of JCM is to establish industrial peace. The Govt. as well as the Staff Associations/Unions participating in the Scheme are required to subscribe a Declaration of Joint Intent which, inter alia, provides for abjuration of agitational methods by the Staff Unions/Associations for redressal of their grievances. Para 21 of the scheme quoted in the Supreme Court judgment states that "Subject to the overriding authority of Parliament, recommendations of the Board of Arbitration will be binding on both sides." According to us, the Supreme Court decision is binding on both the sides so far as date of implementation of the award is concerned. In our view, therefore, it is not open for us to entertain the claim of the applicants that they can re-agitate the issue of grant of revised pay scales from 1-1-83 instead of 1-1-88 which has been announced by the Govt. and which has been confirmed by the Supreme Court.

6. The learned counsel for the respondents would thereafter argue that if the relief relating to the date of revision of pay scale

cannot be granted to the applicants, then most of the applicants would be out of the court because most of these SSAs have already been promoted to various higher grades and the question of grant of any relief to them would not arise. We, however, propose to consider the matter further on the footing that to the extent there are atleast some SSAs who are left out of the benefit of the revised pay scale as on 1-1-68, whether they are entitled to any relief.

7 Learned counsel for the respondents argued that the applicants are bound not only to the date of implementation of the award but also to the terms of Arbitration award that a particular proportion alone should be given higher pay scale and the applicants cannot re-agitate that issue. Here the counsel for the applicant relies on the judgment of the Calcutta Bench of this Tribunal which had gone into the question of reasonableness of the award and which set aside the arbitral award on the ground of its going beyond terms of reference and which action was upheld by the Supreme Court vide the case of Union of India v. Santiram Ghosh & Ors. 1989/ILLJ 153. The proposition propounded is that the Tribunal has powers to examine the recommendations of the Board of Arbitration with reference to the terms of reference of Board of Arbitration. In that case the terms of reference of the Board of Arbitrators were as follows:-

"Whether the posts of Scientific Assistant of the Botanical Survey

Union v/s
Santiram
Ghosh
to check

of India should be allocated the revised scale of Rs.550-900 in terms of Third Pay Commission's recommendations effective from January 1, 1973."

5. The Board of Arbitrators made the following award:

"All the Scientific Assistants who are continuing as Scientific Assistants since January 1, 1973 and who possess the prescribed qualification for Level I, i.e. M.Sc./First Class B.Sc. (Hons.)/second class/B.Sc. with 3 years' experience shall be placed in the scale of Rs.550-900 with immediate effect i.e. the date of this award and shall be deemed to be automatically absorbed in the grade of Senior Scientific Assistants, irrespective of the fact whether there are vacancies in the grade or not.

Government is further directed to frame proper Recruitment Rules for the posts of Senior Scientific Assistant Level I and Scientific Assistant Level II at the earliest in accordance with the recommendations of the Third Pay Commission after taking into consideration the qualifications prescribed for both levels so that in future the manning of the majority of the posts in these grades is by direct recruitment and rest by promotion from the next lower level. "

8. Thus under the terms of reference, the Board of Arbitrators was only to consider whether Scientific Assistants of Botanical Survey of India were entitled to pay scale of Rs. 550-900. Under the terms of reference there was no scope for prescribing two levels of scale of pay and the minimum qualifications for each level. There was also

no scope for directing the government to frame proper Recruitment Rules for the posts of Senior Scientific Assistants Level I and and Scientific Assistants Level II. But this was what the Board of Arbitrators did and
XX

XXXXXXXXXXXX the award was challenged before Calcutta High Court which case came to be transferred to the Calcutta Bench of the C.A.T. The Tribunal set aside the award on the ground that the Board of Arbitrators acted beyond the terms of reference and therefore it was not binding on the staff side. The Tribunal set aside the award and directed the appellants to accord the benefit of pay scale of Rs. 550-900 to the Scientific Assistants in the Botanical Survey of India. The order of the Tribunal was challenged in the Supreme Court in the



above cited case and the Supreme Court upheld the order of the Tribunal. The learned counsel for the applicant would like us to compare the terms of reference of Board of Arbitrators on the case in question and recommendations made by the Board and give a finding that the Board of Arbitrators has travelled beyond the terms of reference and therefore the award of Board of Arbitrators is liable to be set aside and it should be held that all the Senior Scientific Assistants and not merely 50% are entitled to the revised pay scale. However, the case of Santiram Ghosh appears to be distinguishable because in that case the IIIrd Pay Commission had made certain recommendations. The Pay Commission had.

recommended the examination of job content and on that basis considered the the division of posts of Scientific Assistants into Level-I and Level II but the basic recommendation of the Pay Commission was to allow the benefit of pay scale of Rs.550-900 to the Scientific Assistants as such and the Tribunal gave the benefit of the ^{recommendations of the} Pay Commission to this category. In this particular case ^{with which we are concerned,} the Board of Arbitrators was appointed precisely because the recommendation of the IIIrd Pay Commission as to pay scale/ acceptable to the staff side and therefore the matter passed through a laborious process of negotiations and deliberation by expert classification committee. In our view therefore the Santiram Ghosh case is not applicable.

Moreover we do not find on the facts that

the Board of Arbitrators in the instant case can be said to have travelled beyond its terms of ^{reference.}

~~xxxxx~~. It may not have covered all the levels of staff but the levels of staff with which it dealt stood referred to the Board and

therefore the levels of staff about which it did not make specific recommendation would be deemed to have ^{been} passed over by the Board.

Thus the Board of Arbitrators can be said to have rejected ^{remaining} these ~~these~~ ^{points} and about this action there can be no quarrel.)

9. The counsel for the applicant would urge that another ground for setting aside the arbitral award is that it violates the constitutional guarantee of equality enshrined

IP 1st
over
con-
quarrel

directive principle in the doctrine of equal pay for equal work read with Articles 14 and 16 of the Constitution. In this connection he relies on the case of Savita.P. referred to above. In the case of Savita.P. the action of the Govt. in placing a portion of the existing Draftsmen in the higher revised pay scale of Rs.425-700 on the basis of seniority alone was held to be unconstitutional. The Supreme Court held that ^{it is} the classification of the Senior Draftsmen into two groups that is responsible for the higher pay. For this classification, the Govt. must be able to satisfy the Court of certain other tests which are non-existent, in this case, since it is not in dispute that Senior Draftsmen, belonging to the two divisions, do equal and same work. The counsel for the applicant would urge that about 50% of the SSAs who ^{would be} ~~are~~ enjoying the benefit of revised pay would continue to do the same work as the remaining 50% of the SSAs who have been denied the higher pay scale. He would therefore urge that this Tribunal should set aside the arbitration award and direct the Govt. to give the revised pay scale to all the SSAs in service ^{even} as on 1-1-1988 if the Tribunal is not able to grant this benefit to them from 1-1-73, as urged by applicants.

10. The counsel for the respondents in this connection invites our attention to subsequent judgments of the Supreme Court

and in particular the judgment in Shri Jaghnath v. Union of India and another, JT 1991(4)SC 238. In that case the Govt. of India had divided the existing cadre of Compositors into Compositors Grade-I (Rs.150-206) and Compositors Grade II (Rs.110-180) and ^{it} was decided that Compositors Grade-I would be classified as "highly skilled" and Compositors Grade II as "skilled". The ratio of Grade-I to Grade II was fixed as 20:80. The initial constitution of the cadre of Compositors Grade-I was done by appointing 20% of the Compositors on the basis of seniority-cum-fitness but trade test was made obligatory for further promotions to Grade-I. In para 6 of the judgment the Hon'ble Supreme Court stated that:

"Academic pursuit and experience, are two primary sources of learning. A Compositor's job in a printing press is a skilled job requiring special technique. In such a job, it would be reasonable to measure the standards of skill by length of experience. The High Court, in our view, fell into error in quashing the classification based on experience arising out of length of service."

after protracted deliberations matter referred to arbitration

11. It is not disputed that the claim of SSAs who belong to Scientific cadre is for parity with the technical cadre to which Asstt. Foreman and Foreman belong. It was in this background that after protracted deliberations and negotiations the matter stood referred to Board of Arbitration for a final decision and the Board of Arbitration decided to give the higher revised scale to the Sr. SSAs in the same proportion on the date of award ^{as that} between

Foremen and Asstt. Foremen on Technical side

in the concerned organisation i.e. DRDO and

DSI. According to us, although Savita's

judgment proceeds on the undiluted doctrine of equal pay for equal work, there has been further evolution of the doctrine as revealed by the Supreme Court judgment in Jaghnath V. Union of

India. It is now well settled that several factors are required to be gone into before fixing the pay scale and one of the relevant factors is the historical background in which a particular decision relating to pay fixation is taken. In our view, keeping in view the ratio

of Jaghnath's case and keeping in view the background of the whole dispute and keeping in view the nature of the JCM scheme in which

the staff association as well as individual members of staff are required to be held to the binding nature of the arbitration award

with its modified date of implementation as confirmed by Supreme Court, the Tribunal

should be chary before unsettling settled

issues, especially after protracted litigation.

There should be a finality to such disputes.

The question of relativities in the pay

scales of different cadres, in the present

case between technical and scientific cadres

of the DRDO and DSI is essentially a matter

for expert bodies and even after the

implementation of the award, if there are

any disputes still to be resolved, they are

required to be resolved by making appropriate

representations to the Vth Pay Commission which

is at present going into the question of

revision of pay scale of Central Govt. staff.

It is
demanding
merit
representation
12th line
bottom.

We are therefore not satisfied that this is a fit case in which we should interfere. We have already given the reasons as to why the various contentions raised by the applicants in support of their prayers cannot be accepted on a survey of administrative - legal grounds. We therefore dispose of this O.A. by passing the following order :

O R D E R

O.A. is dismissed. There will be no order as to costs.

O.A.929/89

This application is filed by The Scientific Staff Association viz. an association of the Non-gazetted non-industrial Scientific staff working under Director, Armament Research & Development Estt., Pashan and Director, Explosives Research & Development Laboratory Estt., Pashan & one Rajan Manohar Kale, an individual member of the Association. The main reliefs claimed in this application are in relation to the category of Junior Scientific Assistants Gr.I and Gr.II whose grievance according to the applicants have altogether been ignored by the Board of Arbitration. We have considered this aspect in relation to terms of Reference of Arbitration Board. For the reasons given in O.A. 892/89 we find no substance in the various prayers and O.A. is accordingly dismissed with no order as to costs.

no substance

O.A.930/89

This O.A. has been ~~rd~~ filed by the Association referred to in O.A.929/89. No individual member has been joined as applicant. The main prayers relate to the category of staff belonging to Sr. Scientific Assistants and otherwise the prayers are in para materia with prayers reproduced. For the reasons given in O.A. 892/89 we find no substance in the various prayers and ^{the} O.A. is accordingly dismissed with no order as to costs.

O.A.975/89

This O.A. has been filed by A.B. Ingalkar and nine ors. who are working as Scientific Officers in the Institute of Armament and Technology, Pune. The main prayers relate to SAs and are para materia with the prayers referred to in O.A. 892/89. For the reasons given in O.A.892/89 we find no merit in this O.A. which is dismissed with no order as to costs.

(M.R. KOLHATKAR)
Member(A)

(B.S. HEUDE)
Member(J)

Certified True Copy

Date 12/3/95

(Signature)

Secy

Genl. Secy

Genl. Secy

20

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO. 17585 OF 1995

IN THE MATTER OF:-

Scientific Staff Association
(An Association of the
Non-gazetted, Non-Industrial
Scientific Staff Working in the
Defence Research and Development
Organization under the Ministry of
Defence under Control of the
Respondents at Pune in ARDE & ERDL,
Pashan) With the office of the
Association at ARDE, Pashan, Pune - 21
Represented by D.M. Shaikh its
General Secretary. ...Petitioners

Versus

1. Union of India
Secretary
Ministry of Defence
New Delhi.
2. Scientific Adviser to

the Ministry of Defence
New Delhi.

3. The Director
Armament Research and
Development Establishment
Armament Post,
Pashan, Pune - 21.

4. The Director
Explosives Research and
Development Laboratory
Pashan, Pune - 21

... Respondents

TO

THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS OTHER HON'BLE JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA.

The humble petition of the
Petitioners abovenamed.

MOST RESPECTFULLY SHOWETH:-

1. That the petitioner is filing the present special leave petition against the judgement and order passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989 dated 21-2-1995.
2. The petitioner states and submits that by the impugned judgement and order, the Hon'ble Tribunal was pleased to reject the reasonable grievance made by the petitioner as from the facts of the case it will be absolutely clear that the petitioner's contentions were overlooked since 1973 and even the various bodies which came to be appointed like the Expert Classification Committee, conciliation as well as the Board of Arbitrators, failed to do justice in the matter of the employees namely the Junior Scientific Assistants represented by the petitioner. From the facts it will be clear that since the year 1973, the pay scales of the junior scientific assistants lagged behind all the equivalent posts and in spite of the grievance made from time to time justice was not done and for that reason the petitioner was compelled to approach the Hon'ble Central Administrative Tribunal. However, the Hon'ble Tribunal as well failed to appreciate the grievances of the petitioner.
3. The present matter involves the following question of law of general public importance which needs to be decided by this Hon'ble Court:-

- A. Is it legal to allow the pay scales of a particular set of employees to lag behind those of comparable and equivalent posts, particularly when upto 1973 such parity was more or less maintained ?
4. The brief facts leading to the filing of the present special leave petition are as follows:-
5. The petitioner Association represents interests of staff members working with different research laboratories under the Defence Research and Development Organization, under the Ministry of Defence.
6. The petitioner herein is affiliated with the organization at Kanpur. The petitioner represents practically all the junior scientific assistants in research laboratories namely, the Aeronaut Research and Development Establishment and High Energy materials research Lab. (Earlier known as ERDL) Pashan, Pune.
7. The Junior Scientific Assistants with whom the petitioner is concerned in the present matter are non-gazetted and non-industrial employees of the research laboratories under the Defence Research and Development Organization. It may be pointed out that the laboratories have a cadre of scientific service employees and there are different posts in the hierarchy. The

24

laboratories as well have a separate cadre of technical services and for the sake of convenience, the hierarchy of posts in these two cadres is reproduced below:-

Scientific Staff

Junior Scientific Asstt. Grade II

Junior Scientific Asstt. Grade I

Senior Junior Scientific Asstt.

"

"

"

"

"

"

Technical Staff

Supervisor B Grade

Supervisor A Grade

Chargeman Grade II

Chargeman Grade I

Assistant Foreman

Foreman

"

"

Junior Scientific Officer

8. The pay scales of the Central Government employees are examined and recommended by Pay Commissions which are appointed from time to time by the Central Government. It is expected that the Pay Commissions should examine various relevant factors while fixing pay scales for a particular post. Amongst other things, it is obvious that the Pay Commission may examine the content and nature of work an employee is expected to perform in a given post and also the pay scales of the posts which are comparable.

295
two
grades to
JSAs

9. The post of Junior Scientific Assistant is divided into two categories - Junior Scientific Assistant Grade I, Junior Scientific Assistant Grade II.

10. It may be observed that in the hierarchy of technical staff there are different posts like Foreman, Assistant Foreman, Chargeman Grade I, Chargeman Grade II etc.

11. It is most pertinent to point out that there is ample material by which it can be demonstrated that the posts of Senior Scientific Assistant ;and Foremen are expected to be equal and more or less parity between these two posts has been maintained. However, a bare glance at the pay scales of scientific side and technical side will clearly demonstrate that the pay scales of scientific staff and particularly those of junior scientific assistants lagged behind over a period of time and this fact can be clear with reference to the comparative chart of pay scales given below:-

Ist	IIInd	IIIrd	IVth	Category
Pay	Pay	Pay		
Comm	Commission			
ssion	ssion			

Junior
Scientific

4th

124.6
- 35.7
88.9

The important features of the above charge can be made out as follows:-

(a) The maximum of the scale Junior Scientific Assistant Grade II had been higher than Supervisor Technical Grade III under the recommendations of the first two Pay Commissions. The third and fourth Pay Commissions brought them on the same level, thus causing regression in the scale of the Junior Scientific Assistant Grade II.

(b) The minimum of the pay scale of Junior Scientific Assistant Grade I has been higher than that of Supervisor II and Chargeman Grade II and the maximum had also been substantially higher than both those categories at the first two pay commission reports. However, the third and fourth Pay Commission pulled Junior Scientific Assistant Grade I down. Its another example of regression of the pay scales of scientific staff.

(c) The maximum of the scale of junior scientific assistant Grade I was not far below that of the maximum of the scale of Chargeman Grade I and in any case it was better than that of Chargeman Grade II. Now Junior Scientific Assistant Grade I has been pushed from substantially below chargeman Grade I.

(d) After the recommendations of the first two Pay Commissions, the maximum of the scale of Senior Scientific Assistant was substantially higher than that of Assistant foreman. The third Pay Commission brought them on par. And the Fourth Pay Commission has pushed the maximum of the pay scale of senior Scientific Assistant far too below that of Assistant Foreman.

(e) The category of Foreman which had the same maximum of pay scale as SSA as a result of the recommendations of the first pay commission gradually began to steal a lead over the latter and as a result of the recommendations of the IV Pay Commission there has generated a widely gaping gap between the two.

(f) Pertinent to observe that the feeder post for the next higher level of Junior Scientific Officer is still the Category of Senior Scientific Assistant on the Scientific Staff side and Foreman on the Technical staff side. The equality is, therefore not altogether negated.

(g) It may not be irrelevant to point out here that between the lowest level of induction of staff and their rise to the highest level of entry to feeder post to common category of Junior Scientific Officer, the number of intermediate stages on the Scientific Staff and the Technical staff side are different. The Scientific staff has to pass through three stages while the Technical staff has to pass through 5 stages. But the apex is the same.

In two commissions accepted equally JSA I = chageman I 10

(h) It is the say and submission of these applicants that the earlier two pay commissions have virtually accepted and acknowledged the equality between Junior Scientific Assistants Grade I and chageman Grade I as well as between Senior Scientific Assistant and Foreman, the indifferent attitude of DRDO authorities has resulted in a failure in properly projecting such equality before the subsequent pay commissions and, therefore, they have pushed both the said Scientific Staff categories to an inferior position pay scale wise.

12. The petitioner further respectfully states and submits that from the charge given above, it will clearly appear that a parity of pay scales between the post of Junior Scientific Assistant Grade I and Assistant Foreman as well as Junior Scientific Assistant Grade II and Chageman should have been maintained. As pointed out above, there is ample material to show that the posts of Senior Scientific Assistant is equivalent to the post of Foreman and, therefore, parity in the next posts such as Junior Scientific Assistant and Assistant Foreman and so on and so forth should have been maintained. It may be extremely relevant to point out that the affidavit came to be filed on behalf of the government in Civil Writ Petition No. 1409 of 1983 before the Hon'ble High Court of Delhi in which comparison between the duties of scientific staff and technical staff of the organization of Directorate General of Inspection was involved. The petitioner craves leave to this Hon'ble Court to produce a

1409/83

copy of the affidavit later on at the time of hearing. The petitioner states that inspite of persistent efforts the petitioner could not secure the copy of the said affidavit so then it will be in the interest of justice to direct the respondents to produce the same and ultimately the petitioner fails to secure the same. However, certain statements in the said affidavit will throw light on the facts of the case which are produced hereinbelow:-

"The petitioners have apparently tried to build up a case on the ground that an individual rising from the lower rung of the ladder in the technical cadre is required to put in longer years of service as compared to those engaged in the Scientific cadre to qualify for further promotion to the grade of J50. The picture drawn does not represent the correct scenario. The current recruitment rules cater for filling of vacancies at 80% by promotion and 20% by direct recruitment in all grades of Technical Cadres except the lowest grade of Supervisor (Technical) Grade III in which the ratio prescribed for promotion and recruitment is 50 : 50. In the ultimate analysis, 50 % of the incumbents in all grade all along the line of promotion are those rising from Industrial Cadre with metric as educational qualification. In respect of Scientific Cadre the initial point of intake is at the level of JSA II which is filled by 100 % direct recruitment and for which the educational qualification is B.Sc. or Diploma in Engineering. IN the higher grade of JSA I there is provision for filling of vacancies 67% by promotion and

33 % by direct recruitment. It will be noted from the above that in the Technical stream the industrial employees possessing qualification of metric are eligible to get promotion right up to Foreman level and from thereon he is also eligible to become SSO. 50% in the technical stream are likely to be promotees from industrial employees and as such their equation on the basis of time limit with the scientific stream is not justified".

"The effect of multigrade structure of technical cadre is that multigrade promotions are comparatively faster and more financial gain accrues at each stage of promotion".

"In fact, at AHSP level, both SSAs and Foremen perform same types of job and the duties are interchangeable. The government treats the grades of Foreman, SSA on equal footing for the purposes of further promotion to the grade of JSO".

"If that be the position, it automatically goes without saying that JSA I has to be treated on par with Assistant Foreman and Chargeman Grade I and JSA II has to be treated on par with Chargeman Grade II.

It is further said in the affidavit:-

"This equation is based on the job responsibility, principles of equation followed in the Central Government. The arrangement is regarded as fair and just".

Promotions
Technical
Stream

SSA &
Foreman
equated

In para 19, the affidavit says:-

"The Expert Classification Committee on the Job Evaluation of Scientific and Technical categories reveal that in DGI and its organization there is intermixing of jobs in the two categories both Technical and Scientific personnel doing or alternating on the same type of jobs.

It has to be added that within Defence R&D Organization itself, there exists such flexibility and mobility and hence the present demand of the JSA I and II category to be equated in scales with AF/Ch. I and Ch. II respectively.

12. It may be relevant to point out that the recruitment qualifications of the Scientific and the Technical Staff will aid in realising the equality between JSA II on the Scientific staff side and Ch. II on the Technical Staff side and JSA on the Scientific staff side and Ch. I and Assistant Foreman on the Technical Staff side.

For a better understanding comparative chart showing the qualifications is reproduced below:-

JSA-II	Degree in Science Supervisor	Degree in science
	or	or
	Diploma in Engineering	<u>Diploma in Engineering</u>

100% direct
recruitment

50% Direct
recruitment
50 by promotion of
Tradesmen.

Ch. Grade II

Degree in Science with
2 years experience or
Degree in basic
subject or
Diploma in basic
subject with some
experience.
By promotion.

JSA-I

Master's Degree
in Sciences or
Degree in Engineering
or
Diploma in Engineering
with 2 years.
experience.
Promotion.

Ch.Gr.I

Master's Degree in
Sciences or
Degree in Engineering or
Diploma in Engineering
with 4 years
experience or
Degree in Science
Experience.
By promotion.

Asstt.

Master's Degree in
Science OR

Foreman

Degree in Engineering or

Degree in
 Science with 5
 years. Experience or
 Diploma in Engineering
 with 6 years
 experience.

13. The petitioner respectfully submits that for the reasons stated above and for various other grounds, the petitioner throughout had grievance as to the disparity in pay scales which meant denial of right to equal pay to the members of the petitioner.

14. In the year 1979, the Expert Classification Committee issued a report and it is relevant to reproduce a gist of some of the findings recorded by the Committee.

(a) There was intermixing of the technical and scientific staff and the jobs in two categories co-exist without distinct demarcation of duties.

(b) Persons doing the same nature of job and holding same qualifications were receiving different rates of pay merely due to different designations.

1979
 Classification
 report

(c) There was a clear and palpable departure from the principle of equal pay for equal work and this was a major source of discontent among the staff.

(d) There was discrimination which was primarily the result of having two job categories for the same type of work.

Some jobs treated with disparity
(e) Identical jobs performed by technical and scientific staff are treated with disparity in an unwarranted manner.

15. The petitioner respectfully submits that in spite of this, the matter of disparity was not attended to and inter alia this issue was raised in joint consultative machinery. However, the issues could not be resolved in joint consultative machinery and, therefore, in the year 1983, the matter was referred to the Board of Arbitration.

16. The Board of Arbitration after hearing the parties pronounced its award on 12-5-1985. However, in spite of specific prayer to consider the pay scale of Junior Scientific Assistants the Board failed to decide the same.

17. That so far as the rules governing arbitration are concerned, the award needs to be approved or otherwise by the Parliament and the Petitioner was hoping against hopes that ultimately the Parliament would do justice in the matter.

However, after long three years, the Parliament passed a resolution only with respect to the date of enforcement of award and, therefore, the petitioner's grievance were not resolved.

18. The petitioner in the circumstances constrained to approach the Hon'ble Central Administrative Tribunal at Bombay by filing O.A. No. 929 of 1989. The petitioner in the Original Application mentioned all the relevant facts and circumstance by virtue of which the petitioner claimed parity as was maintained earlier.

19. However, the Hon'ble Tribunal failed to appreciate the grievance of the petitioner and the Tribunal dismissed the application no. 929/89 filed by the petitioners. The Hon'ble Tribunal failed to appreciate that, in fact, the Board of Arbitration did not decide anything regarding Junior Scientific Assistants and, therefore, the Hon'ble Tribunal should have corrected the mistake.

20. Being aggrieved by the judgement and order passed by the Hon'ble Central Administrative Tribunal, Bombay in Original Application No. 929/89 dated 21-2-1995, the petitioner is filing the present special leave petition in this Hon'ble Court on the following amongst other grounds which are taken without prejudice to one another.

G R O U N D S

A. The petitioner respectfully states and submits that the respondents committed error while disturbing parity between Scientific Staff and the Technical Staff which was more or less maintained till the second Pay Commission.

B. The Petitioner submits that the Hon'ble Tribunal failed to appreciate that inspite of a specific prayer to do justice in the matte of Junior Scientific Assistants neither the Joint Consultative Machinery nor the Board of Arbitration decided the matter and, therefore, the Hon'ble Tribunal should have decided the grievance of the Petitioners.

C. The petitioner respectfully states and submits that from the material produced by the petitioner it is clear that parity between the Scientific and technical staff should have been maintained and rather the ;job content of Scientific staff is of more responsibility and inspite of that the Scientific staff and, particularly, the Junior Scientific Assistants are denied the parity.

D. The Petitioner respectfully states and submits that it was only because of the callous attitude on the part of the respondents that the pay scales of junior scientific assistants lagged behind as the case for parity was not properly represented by the respondents before the Pay Commission.

E. The petitioner respectfully states and ;submits that at present the position is such that a senior scientific assistant draws equal pay like Foreman whereas the next post after the Senior Scientific Assistant ;i.e. Junior Scientific Assistant, Grade I draws even less pay than an Assistant Foreman and even less than Chargeman Grade I. It is respectfully submitted that this is blatant injustice to the Junior Scientific Assistants.

F. The petitioner respectfully submits that the junior scientific assistants in many respects have been put to disadvantage as in the hierarchy of scientific staff as there are less number of promotional avenues than the technical staff and at the same time the junior scientific Assistants are even denied the most reasonable parity.

G. The petitioner states and ;submits that the award of Board of Arbitrators was challenged by some other employees. However, such challenge was regarding the date of enforcement of the award, whereas the grievance of the Junior Scientific Assistants is regarding lagging behind of pay scales over a period of time without any justification whatsoever.

21. The petitioner states that he has not filed any other special leave petition in this Hon'ble Court against the judgement and order passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989 dated 21-2-1995.

22. It is, therefore, most respectfully prayed that this Hon' Court may be pleased to:-

- (a) grant the present special leave petition against the judgement and order passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989 dated 21-2-1995; and
- (b) pass such and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS
AS IN DUTY BOUND SHALL EVER PRAY.

Filed by:

(EJAZ / ACPHOL)

ADVOCATE FOR THE PETITIONERS

NEW DELHI.

DATED: 10TH JULY, 1995.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLANT JURISDICTION

SPECIAL LEAVE PETITION NO.

OF 1995

In the matter of

SCIENTIFIC STAFF ASSOCIATION, PUNE

PETITIONER

VS.

UNION OF INDIA & OTHERS

RESPONDENTS

AFFIDAVIT

I, Mr. A.D. SHAIKH, son of Late Mr. D.M. SHAIKH

Age 38 years, Occupation: Service, Resident: 12, Girish apartments

13/3, Shitolenagar, Sangvi, Pune 411 027,

state on affirmation :-

1. That I am the GENERAL SECRETARY of the PETITIONER association and I am well conversant with the facts of the case and, therefore, I am competent to swear this AFFIDAVIT.
2. That I have gone through the copy of the SPECIAL LEAVE PETITION and I state that the contents thereof are true and correct.
3. That I have gone through the copy of the interim relief application and I state that the contents thereof are true and correct.
4. That I have gone through the copy of the Application for exempting from filing certified copy of the impugned judgement and order and I state that the contents thereof are true and correct.
5. That the annexures are the true copies of their respective originals.



Solemnly affirmed at

PUNE on

DEPONENT

GENERAL SECRETARY
SCIENTIFIC STAFF ASSOCIATION
PUNE

41

1

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 1975

IN

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 1975

IN THE MATTER OF:-

Scientific Staff Association

...Petitioner

Versus

Union of India & Ors.

...Respondents

APPLICATION FOR EXEMPTION FROM
FILING CERTIFIED COPY

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS OTHER COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA.

The humble petition of the
Petitioner abovenamed.

MOST RESPECTFULLY SHOWETH:

1. The petitioner has filed a special leave petition in this Hon'ble Court against the judgement and order passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989 dated 21-2-1995.
2. The detailed facts of the present case have been narrated in the accompanying Special Leave Petition and the Petitioner craves leave of this Hon'ble Court to consider the same as forming part of this application.
3. That the petitioner states that the present petition is being filed with ordinary copy of the impugned order as the certified copy is not available with petitioner at present.
4. The petitioner therefore, most respectfully prays that this Hon'ble Court may be pleased to:-
 - (a) Exempt the petitioner from the filing the certified copy of the judgement and order dated 21-2-1995. passed by the Hon'ble Central Administrative Tribunal in Original Application No. 929 of 1989; and
 - (b) pass such and further and other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.