CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:897/2001
DATED THE 6th MARCH,2002

CORAM:HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Smt.Sindhu Vasant Borkar,
W/o.Sri V.R.Borkar,
residing at Flat No.1A,
Vanasthree Apartments,
Tapovan Society,
Warje, Pune-411 052 ... Applicant

By Advocate Shri S.P.Saxena

V/s.

1. The Union of India,
through the Secretary,
Ministry of Defence,
New Delhi.

2. The Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
Delhi - 110 011.

3. Chief Engineer,
Southern Command,
Pune - 411 001. ... Respondents

By Advocate Shri R.R.Shetty for
Shri R.K.Shetty

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

The Government of India vide OM dated 19/8/44 equated the posts of Grade B and Grade C in Subordinate Offices to those of Upper and Lower Division Clerks' posts respectively. However, in spite of this equation and recommendation by the IIIrd Pay Commission to place the UDC in the payscale of 80-220, the respondents did not give the payscale of UDC to those B Grade who were equated to UDC. They were given the payscale applicable to the LDCs who were

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formerly in the 'C' grade.

2. Being aggrieved by this discrimination, a writ petition 890/79 was filed in the Bombay High Court by employees of the office and the Textile Commissioner of Bombay and the Bombay High Court held relying on a Supreme Court decision that once the question of principle had been decided by the Court rightly or wrongly it is the bounden duty of the Government of India to apply the said principle in respect of employees under same circumstances and serving under them in whatsoever department concerned. It was held that each one of the petitioners should be fixed in the UDCs grade as from 1/1/47. As no action was being taken a further writ petition was filed bearing No.2235 of 1982 before the High Court of Bombay. The same was transferred to the Tribunal as TA-144/1986. The Tribunal directed the respondents to place the applicants in the grade of the UDCs with retrospective effect from 1/1/47. Similar matter had come up before the Madras High Court in WP 5853/1982 and the said Court also followed the Bombay High Court order holding the applicants therein entitled to the payscale of UDC w.e.f. 1/1/47. Civil appeal no.4201/1983 filed against the aforesaid judgement of the Madras High Court was disposed of by the Supreme court on 4/11/87 by upholding the orders of the Madras High Court at the same time restricting the arrears to 60%.

3. The applicant in this present case is the wife of one Shri V.R.Borkar who was similarly placed and who had been employed before 1947. He was also a B Grade clerk and

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deserved to be granted the status of UDC with the said payscale. The case of the applicant is fully covered by the judgement of the Bombay and Madras High Courts. We are therefore of the considered view that the applicant's husband is entitled to the UDC scale w.e.f. 1/1/47 and direct the respondents accordingly to grant the same with consequential benefits.

4. The applicant has approached this Tribunal only in November,2001, though a representation was made by the applicant on 21/03/2001. There is no application for condonation of delay. In terms of the judgement in M.R.Gupta V/s. Union of India 1995(5)SCALE 29 (SC) as the cause is of a continuous nature, the delay is condoned. However, since the applicant has approached this Tribunal belatedly the payment of arrears shall be confined to the period of one year prior to the filing of the OA i.e. w.e.f. 9/11/2000. The above direction shall be complied with within a period of six months from the date of receipt of copy of this order.

5. The OA is allowed. No costs.

Shanta S

(SMT.SHANTA SHASTRY)
MEMBER(A)

B. Dikshit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

abp