

CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

ORIGINAL APPLICATION NO. 6 OF 1997

Shri D. Sanjeeva Rao
~~C. Narasimha Chetty~~ and others Applicant(s)

V E R S U S

The Engineer-in-Chief, Army Head quarters
New Delhi on 3 others

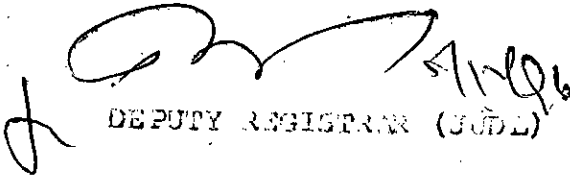
The application has been submitted to the Tribunal by

Shri N. V. Sarma Advocate/Party in -

person under section 19 of the Administrative Tribunal Act
1985 and the same has been scrutinised with reference to the
points mentioned in the check list in the light of the provi-
sions in the Administrative Tribunal (Procedure.) Rule 1987.

The application is in order and may be listed for
admission on 12-96

CCX
28/11/96
Scrutiny Asst.


DEPUTY REGISTRAR (JUDGE)

11. Have legible copies of the annexure duly attested been filed. yes
12. Has the Index of documents been filed, and pagination done properly. 43
13. Has the applicant exhausted all available remedies. 43
14. Has the declaration as required by item NO. 7 of form, I been made. 43
15. Have required number of envelopes (file size) bearing full address of the respondents been filed. 43
16. (a) Whether the relief sought for, arise out of single cause of action. -
- (b) Whether interim relief is prayed for, 43
17. In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant. -
18. Whether this case can be heard by single Bench. -
19. Any other point. -
20. Result of the Scrutiny with intial of the scrutiny Assistant. may be filed

As per 196
Scrutiny Assistant.

[Signature]
Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:

Dairy NO. 378/96

Report in the scrutiny of Application.

Presented by. Mr. V.V. Sarma.....Date of presentation. 26/11/96
Applicant (s) D. Sanjeeva Rao
Narasimha Chetty and others
Respondent (s) The Engineer in chief, Army Head Quarters
New Delhi
Nature of grievance Time bound promotion
NO. of application 17.....No of Respondents 5

CLASSIFICATION

Subject.....(NO.) Department Defence..(NO. 2)

1. is the application in the proper form,
(three complete sets in paper books
form in two compilations. 45
2. Whether name, description and addressed of
all the parties been furnished in the cause
title. 45
3. (a) Has the application been fully signed
and verified. 45
(b) Have the copies been duly signed. 45
(c) Have sufficient number of copies of the
application been filed. 45
4. Whether all the necessary parties are impleaded. 45
5. Whether English translation of documents in a
language other than English or Hindi been filed. 45
6. Is the application on in time, (See Section 21) 45
7. Has the Vakalatnama/Memo of Apperance/Authorisation
been filed. 45
8. If the application maintainability.
(U/s 2, 14, 18, or H.R. 8 etc.) 45
9. Is the application accompanied IPO/DD, for
Rs. 50/- 45
10. Has the impugned orders Original, duly attested
legitable copy been filed. 45

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

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C. N. Chary & 20th 16 others

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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OASR 3782/96

3784/96

D.A. NO

6

1997

D. Sanjeeva Rao
C. Narasimha Chary & 26 others

Applicant(s)

V E R S U S

**Engineer-in-Chief, Army Head Quarters, Kashmiri House, New Delhi
& 4 others**

Respondent(s)

Date

Office Note

Orders

2-12-96

Sanjeeva Rao

The objection raised by the office of mis-joinder of the applicants in the Single application is correct and upheld. The only concession made is to allow each group to join in single application subject however to file an MA for leave in the event. This order shall not be construed as leave granted automatically. Similarly the leave granted to file a separate OA by each category shall be relating to one unit and for the same class working in another unit a separate petition will have to be filed. Pending leave being granted on MAs single court fee may be accepted in each OA subject to such orders as may be made by the Court for additional Court fee, ^{may be} learned counsel for the applicants maintain such steps as are advised.

[Signature]
(HHRP)
M(A)

[Signature]
(HMGCCJ)
VC

Regd. To direct the respondents to accord the promotion benefits of the time bound higher pay scales to the applicants as LDCs and to be placed in next higher grade of Rs 1200-2000 and 1400-2300 w.e.f. 1-1-1986.

Bench case IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : AT HYDERABAD.
O.A.No. 6 /1997.

Time bound Promotion

Defence (C)
(No. 12)

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Signature of the 1st applicant



Recd
26.11.96
A. N. R. Derry

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD

O.A.No. 6 /1997.

C. Narasimha Chary
and 28 others.

.. Applicants.

Vs.

Engineer in Chief, Army Head Quarters,
Kashmiri, House New Delhi - 110 011.

and 3 others.

.. Respondents.

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Counsel for the Applicant.

AMENDED CAUSE-TITLE AS PER THE ORDERS OF THE TRIBUNAL

Dt. 3-12-1996.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD.

O.A. NO. *6* /1997.

1. Between:

1. D. Sanjeeva Rao S/o. Late D.Vasudeva Rao, aged about 47 years, working as L.D.C in the office of the Garrison Engineer (I) R & D Chandrayangutta Hyderabad.
2. Y. Seetharam Reddy, Late S/o. Y. Padma Reddy, aged about 40 years, working as L.D.C in the office of the Garrison Engineer (I) R & D Chandrayangutta Hyderabad.
3. I. Sreenivas Rao, S/o. Seetharamulu, aged about 35 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad.
4. G.N. Sree ~~Ram~~ ^{Hari} Ram, S/o. G.S.Narasimlu (late) aged about 39 years, working as L.D.C in the office of the Garrison Engineer (I) R & D chandrayangutta Hyderabad.
5. Amjad Hussain S/o. Ahmed Hussain, aged about 30 years working as L.D.C in the office of the Garrison Engineer (I) R & D chandrayan Gutta Hyderabad.
6. P.S.Gulawane W/o.P.S.Gulawane, aged about 33 years, working as L.D.C in the office of the Garrison Engineer (I) R & ?D Chandrayangutta Hyderabad.
7. Shahu (Hameed, N.M. S/o. Late shahus Mohd. K.Rawther) ^{W/O} aged about 41 years, in the office of the Garrison Engineer (I) R & D chandrayangutta, Hyderabad.
8. Smt. E. Waralakshmi W/o. E.B.Prakash Rao, aged about 39 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D chandrayan Gutta Hyderabad.
9. K.Alok Kumar, S/o. Late Kailash prasad aged about 34 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad.
10. Smt K. Sujatha, W/o. K.Murali, aged about 35 years, working as L.D.C in the office of the Garrison Engineer Garrison Engineer (I) R & D Hyderabad.
11. T.Sharavan Kumar, S/o. T.Shankaraiah, aged about 35 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Hyderabad.
12. B.Brahmaanda Chary S/o. B.Govinda Chary, aged about 35 years, working as L.D.C in the office of the Garrison Engineer (I) R & D Hyderabad.

13. Smt. G.T.T. Janaki, W/o. G.T.V. Ranga Chary, aged about 35 years, working as L.D.C in the office of the Garrison Engineer (I) R & D, Hyderabad.
14. A.R. Aref Hussain Jaffar, S/o. Late A.R. Mohd Jaffar, aged about 24 years, working as L.D.C in the office of the Garrison Engineer (I) R & D, Hyderabad.
15. P. Maheswar, S/o. Babu Ram, aged about 35 years, working as L.D.C in the office of the Garrison Engineer (I) R & D, Hyderabad.
16. Smt. Premlatha Hariharan .K. W/o. K. Nariharan, aged about 36 years, working as L.D.C in the office of the Garrison Engineer (I) R & D Hyderabad.
17. Syed Waheed Ahmed, S/o. Dastagir, aged about 25 years, working as L.D.C in the office of the Garrison Engineer (I) R & D Hyderabad.

All the Applicants are working under the Jurisdiction of C.E R & D Picket, Secunderabad.

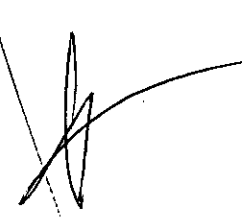
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD

O.A.No. 6 /1997.

Between:

1. C.Narasimha Chary, S/o. Late. C. Daviah Chary, aged about 54 years, Working as U.D.C, in the office of Garrison Engineer (I) R&D Chandrayangutta, Hyderabad -5.
2. P. Krishna, S/o. P. Bonthaiah, aged about ⁵²~~50~~ years, working as U.D.C. in the office of the Garrison Engineer (I) R&D Chandrayangutta: Hyderabad-5.
3. N.V.John S/o. Varghese, aged about 50 years, working as U.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta: Hyderabad - 5.
4. Smt. U.S.Jayalakshmi, W/o. S.Sunder Kumar, aged about 53 years, in working as U.D.C. in the office of the Garrison Engineer (I) R&D Chandrayangutta, Hyderabad-5.
5. S.B.M.Imani S/o. Mohd. Imani, aged about 50 years, working as U.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad.-5.
6. Mohd Ali S/o. Syed Moinuddin, aged about 47 years, Working as U.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad- 5.
7. P.Vijaya D/o. P. Chinnabbai, aged about 36 years, working as U.D.C. in the off ice of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad - 5.
8. D.Sanjeeva Rao, S/o. Late D.Vasudeva Rao, aged about 47 years, Working as L.D.C, in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad.
9. Y. Seetharam Reddy, Late S/o. Y. Padma Reddy, aged about 40 years, working as L.D.C., in the office of the ~~Garrison~~ Garrison Engineer (I) R & D Chandrayangutta, Hyderabad-5.
10. I. Sreenivas Rao, ~~Late~~ S/o. Seetharamulu, aged about 35 years, working as L.D.C. in the office of the Garrison Engineer (I) R& D Chandrayangutta Hyderabad-5.
11. G.N.Sree Hari Ram, S/o. G.S. Narasimhao (late) aged about 39 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta Hyderabad.
12. Amjad Hussain S/o. Ahmed Hussain, aged about 30 years, Working as L.D.C. in the office of the Garrison Engineer (I) R& D Chandrayangutta, Hyderabad - 5.
13. P.S. Gulawane W/o. S.S.Gulawane, aged about 33 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad - 5. Working as LDC
14. Shahul Hamed M.M., S/o. Late. Shahul Mohd .K.Rawther / aged about 41 years, in the officethe Garrison Engineer (I) R & D Ghandrayangutta, Hyderabad - 5.

15. Smt. E. Waralakshmi, W/o. Shri E.B. Prakash Rao, aged about 39 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandra nayanagutta, Hyderabad - 5.
16. K. Alok Kumar, S/o. Late Kailash Prasad aged about 34 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad - 5.
17. A.Subramanian, S/o. Late C.S. Ardharanary Iyer, aged about 54 years, Working as U.D.C. in the office of the Garrison Engineer (I) R & D ~~Chandra~~ Kanchanbagh, Hyderabad - 58.
18. K.A. Nair, S/o. Krishnan Nair, aged about 46 years, Working as U.D.C. in the office of the Garrison Engineer (I) R & D , Kanchanbagh, Hyderabad - 58.
19. Smt. P.Tirupathi Bai, W/o. D.A. Naik, aged about 40 years, Working as U.D.C. in the office of the Garrison Engineer, (I) R & D, Kanchanbagh, Hyderabad - 58.
20. Smt. D. Jayashree, W/o. D. Venkateswar Rao, 45 years, working as U.D.C. in the office of the Garrison Engineer (I) R & D Kanchanbagh , Hyderabad. 58.
21. Smt. B. Chandrakala, W/o. Shiv Shankar, aged about 40 years working as U.D.C. in the office of the Garrison Engineer, (I) R & D Kanchanbagh, Hyderabad. 58.
22. Smt. K. Sujatha, W/o. K. Murali, aged about 35 years, working as L.D.C in the office of the Garrison Engineer (I) R & D , Kanchanbagh, Hyderabad - 58.
23. T. Sharavan Kumar, S/o. T. Shankaraiah, aged about 35 years Working as L.D.C. in the office of the Garrison Engineer (I) R & D Kanchanbagh, Hyderabad - 58.
24. B. Brahmananda Chary, S/o. B.Govinda Chary, aged about 35 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D Kanchanbagh, Hyderabad - 58
25. Smt. G.T.Janaki, W/o. G.T.V. Ranja chary, aged about 43 years, working as L.D.C. in the office of the ~~6xx~~ Garrison Engineer (I) R & D , Kanchanbagh, Hyderabad-58.
26. A.R.Asref Hussain Jaffar, S/o. Late A.R.Mohd Jaffar, aged about 24 years, working as L.D.C in the office of the Garrison Engineer (I) Kanchanbagh, R& D, Hyderabad - 58.
27. P. Maheswar, S/o. Babu Ram, aged about 35 years, working as L.D.C. in the office of the Garrison Engineer (I) R & D , Kanchanbagh, Hyderabad - 58.
28. Smt. Premlatha Hariharan .K, W/o. K. Hariharan, aged about 36 years, Working as L.D.C. in the office of the Garrison Engineer (I) R & D, KanchanBagh, Hyderabad-58.

29. Syed Waheed Ahmed, S/o. Dastagir, aged about 25 years, Working as L.D.C in the office of the Garrison Engineer (I) R & D, Kanchanbagh, Hyderabad - 56.
 30. ~~late~~ VRC Chowdary, S/o. V.V. Ratnam, aged about 46 years, Working as U.D.C, in the office of Director General Naval Project, Visakhapatnam.
 31. Gabu Surayanarayana Reddy, S/o. Late Satyanarayana Reddy aged about 48 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 32. P. Satya Rao, S/o. Late P. Appala Naidu, aged about 47 years, working as L.D.C working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 33. I.V.V. Satya Giri Prasad, S/o. I. Jagannadha Swamy, aged about 35 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 34. Chippada Ramoji, S/o. SH. Suryanarayana aged about 41 years, working as U.D.C in the office of the Director General Naval Project, Visakhapatnam.
 35. M. Vasu Sasigharan, S/o. Vasu, aged about 41 years, working as L.D.C. in the office of the Director general Naval Project, Visakhapatnam.
 36. P. Prakasa Rao, S/o. P. Joseph, aged about 47 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 37. J.V.S. Bala Giridhara Rao, S/o. Late Suryanarayana aged about 36 years, working as L.D.C. in the office of the Director General Naval project, Visakhapatnam.
 38. M.V. Rajeswara Rao, S/o. M.V.S. Rao, aged about 38 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 39. Krishnana Venkatesan, S/o. R. Krishnana, aged about 34 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 40. Ithigani Surya Prasada Rao, S/o. I.N. Raju, aged about 38 years, working as L.D.C. in the office of the Director General Naval Project, Visakhapatnam.
 41. Venkoba Rao, s/o. Venkata Rao, aged about 55 years, working as L.D.C in the office of the Director General Naval Project, Visakhapatnam.
 42. M. S. Parvathi, W/o. G.G. Giridhari, aged about 31 years working as L.D.C in the office of the Director General Naval Project, Visakhapatnam.
- 

4 -

43. ~~Kolli Jayanti Babu~~, S/o. Late K. Venkata Das, aged about 47 years, working as L.D.C. in the office of the Director General Naval project, Visakhapatnam.

AND

.. Applicants.

1. Engineer-in-Chief, Army Head Quarters, Kashmiri House, New Delhi, 110 011.
2. The Union of India, represented by its Secretary to Government of India, Ministry of Defence, South Block, New Delhi - 110 011.
3. Chief Engineer, Southern Command, Pune- 411001.
4. Chief Engineer, Research and Development, Picket, Secunderabad.
5. ~~Director General Naval Project, Naval Base Post Visakhapatnam.~~

.. Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the Applicants: Shown as above.
 - a) Addresses for service of Notices: Mr. V.V.Sarma, Advocate
H.No. 3-5-314/A, Vithalwadi, Narayanguda,
Hyderabad - 29.
- 2). Particulars of the Respondents: Shown as above.
 - a) Address for service of notices: Shown as above.
3. Particulars of the order against which this application is made:
 - a) Order No. : No. 90270/27/SC/EIC.
 - b) date : 14-6-1996.
 - c) passed by : Engineer in Chief, New Delhi,
Communicated through respondent No.4.
 - d) Subject in brief: Refusal to examine the representations of the applicants for removing the anomalies in pay scales of Group 'C' employees in Military Engineering Service and providing reasonable career progression.
4. Jurisdiction of the Tribunal: The applicants further declare that the subject matter of the order against which they want redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

The applicants further declare that the application is within the limitation prescribed in Sec. 21 of the

Administrative Tribunal's Act 1985. *as per rejection order is dt. 14/6/96 & 19/9/96 respectively*

6. Facts of the case:

1. The applicants are clerical cadre personnel who are classified as Group 'C' employees in the Ministry of Defence. It is submitted that Lower Division Clerks, Upper ~~Mark~~ Division clerks, Office Superintendents are classified as Group 'C' employees in the Ministry of Defence. The civilian clerks in general including the applicants appointed/posted in the MES are having the following pay scales below the officer level:

a) Lower Division Clerk.	Rs. 950-1500
b) Upper Division Clerk.	Rs. 1200-2040
c) Office Superintendent - II	Rs. 1400-2300
d) Office Superintendent - I	Rs. 1600-2600

2. The applicants are governed by recruitment rules of 1991 issued vide SRO No. 233 dt. 4-10-1991 copy of which is annexed herewith as Annexure I which envisages a Scheme of promotions as per eligibility in the order indicated as under:

i) A lower Division Clerk after putting in 8 years of service is eligible for promotion to the post of Upper Division Clerk.

ii) Upper Division Clerk after putting in 5 years of service is eligible for promotion to the post of Office Superintendent.

iii) An office Superintendent after completing 7 years of service as such is to be promoted to the rank of Administrative Officer, It is submitted that as per the scheme for promotion envisaged under the rules detailed in the above para 2 a lower Division clerk after completing 20 years of service is required to be promoted to the rank of administrative officer which is the 4th grade from his initial entry grade/ rank of L.D.C. Due to non-availability of vacancies in the respective post/grades in the chain of promotion an L.D.C. even after putting in 18 to 20 years for reserved categories. There is almost no promotion for unreserved categories and though they have put in considerable service they have not been promoted to even the next higher rank of U.D.C. whereas under rules he is eligible/required to be promoted to the post Gazetted grade (the 4th higher grade/scale) after completing 20 years of total service likewise U.D.C. who qualifies for promotion to the post of office Superintendent after 5/7 years respectively are not promoted even after putting 27 years of service i.e. 5 or 6 more period of service than actually required.

4. In view of the fact that Ministerial staff in the Military Engineering service perform functions requiring higher degree of professional skills, viz., budgeting, maintenance of construction accounts for project works, procurement of stores, accounting of stores, cash handling, administration assisting Engineering staff in preparation of estimates, planning for works and assisting in contract administration in contrast to the simple and routine functions performed by the Ministerial staff in the department of posts, it is equitable that the staff in MES should receive a more favourable dispensation than that granted to their counterparts

in the Department of posts. Far from granting a more beneficial dispensation to the applicants, the respondents had gone to the other extreme position of granting less beneficial dispensation to the applicants ~~vis-a-vis~~ vis-a-vis their counter parts in the Department of posts. This is highly arbitrary. The minimum to which the applicants are entitled is a dispensation which is the same as that granted to their counterparts in Department of Posts.

5. It is submitted that another category of employees of Super intendants (B/R/E/M) Surveyor Assistants working along with the applicants in the same departments under the same employer have an analogous chain of promotion as indicated in the below noted table:

- | | | | |
|---------------------------|-----------|--|-----------|
| a) Superintendents (BREM) | 1400-2300 | promotion grade on completion of 5 years the initial grade | 1640-2900 |
| b) Surveyor Assistants. | 1400-2300 | | 1640-2900 |

These categories of employees after completing a total service period of 15 years as Superintendents (BR/EM), Surveyor Assistants are entitled to promotion to the post of Assistant Engineers/ Junior Surveyors of works in the pay scale of 2000-3500 subject to condition of clearing the Departmental examination.

6. Even in case of non availability of vacancies in the next Higher Grade of promotion the applicants as also such employees are entitled to the next higher pay scale and grade as per their eligibility which would have been allowed to them in the event of availability of such promotional vacancies. The failure of the respondents to concede this as per the scheme of rules despite repeated requests has an adverse effect on the rights of the petitioners necessitating this Tribunals interruption.

7/ It is submitted that the respondents have in case of other employees working along with the applicants in the same department under the same employer i.e. Superintendents (BR/EM) and Surveyor Assistants conceded the right of entitlement to promotional higher pay and even though the posts for promotion to the higher grade are not available. The respondents have issued an order bearing PC-90237/460/B/ETC (legal)/1993/B (works) Government of India Ministry of Defence dt. 29-4-1995 in implementation of the judgement of the Bangalore Bench of the Central Administrative Tribunal granting all these benefits to these employees retrospectively. A copy of this order is annexed herewith as annexure 4 to this O.A. The applicants further submit that they are suffering because of lack of promotional avenues due to non-pursuance of the recommendations from time to time and also deprivation of common opportunities and respective promotions, creation of promotional avenues and also non implementation of the scheme of time bound promotions to the clerical cadres of Military Engineering service resulting in a long stagnations from 18 to 27 years.

8. It is submitted that in the other Central Government organisations like posts and Telegraphs, Income tax Customs life insurance corporation, Banks etc. the pay scales are higher and better than the Military Engineering service clerks while the minimum qualification for initial intake in all the departments including MES is similar.

9. It is submitted that the two categories of MES i.e. Superintendents (BR/EM) Surveyor or Assistant grade II who are eligible for promotion to grade I after 5-7 years of service and grade I after putting in 7 years of service in the grade are eligible for promotion to gazetted officer/

Assistant Engineer/Junior Surveyor of works have been granted time bound scale of pay as indicated table in the following manner.

- | | |
|---|---|
| a) Supdts. (BR/EM) Surveyor Assistant GDE - II on completion of 5 years in the entry grade (Rs. 1400-2300) | i) to be placed in next higher scale of Rs. 1640-2900 w.e.f. 1 Jan. 1986.
ii) If his higher grade will not be treated as a promotional one but will be non functional. |
| b) Supdts (BR/EM) Surveyor Assistants who could not be promoted to the gazetted post of Assistant Eng. Junior Surveyor of works in the pay scale of 2000-3500 due to non-availability of vacancies in the grade of Asstt. Engr./Junior Surveyor of works. | i) To be placed in the scale of Assistant Engineer/Junior Surveyor of works i.e. Rs. 2000-3,500 w.e.f. 1-1-91 on a personal basis after completion of 15 years of total service as Supdt. BR/EM Surveyor Assistants.
ii) As and when regular vacancies in their grade of Assistant Engineer/ Junior Surveyor of works arise, such promotion will be adjusted against those vacancies, subject to observance of normal procedure. |

10. The applicants in this O.A. along with other employees of the cadre are under law under law entitled to the same promotional benefits and release of next higher pay scales and grade as accorded to their counterparts i.e. Superintendents BR/EM surveyor Assistant grade I/II retrospectively both being equally placed and working in similar situations under one employer and in same Department.

11. It is submitted that the denial of equal treatment to the applicants with similarly placed persons is repugnant to the concept of eligibility and thus violative of the provisions Articles 14 and 16 of the Constitution. It is submitted that the applicants have been subjected to a worst type of hostile discrimination. Thus their fundamental rights are being trampled.

12. It is submitted that the action of the respondents by ignoring the applicants and in not according them the due promotional benefits and not allowing them the higher pay scale and grade as allowed to others is highly discriminatory and violative of the principles of Natural Justice. The respondents cannot be allowed to adopt a policy of pick and chose while making promotions. They were to treat equally placed persons equally. In this view of the matter the applicants in the rank of L.D.C. after putting 18 to 20 years of total service are required to be promoted to the rank of Administrative officers which is the 4th higher grade from his initial entry grade. Similarly the cycle of promotions with regard to the applicants having entered the service as U.D.C/Office Superintendent/Administrative officer will move upwards accordingly.

13. It is further submitted that the applicants have been avoided and deprived of their genuine promotional benefits so far on the pretext of non-availability of vacancies in the next higher grade. Now by according these benefits to others even in the face of non-availability of vacancies the things have become clear and the respondents are under law obliged to accord the same treatment to the petitioner-s. All the applicants routed their applications/representations through proper channel. The 1st respondent having received the representations of the applicants through his letter dt. 14-6-1996 rejected their representations stating that the 5th Pay Commission will look into all the ^{pay} anomalies. The order of the 1st respondent was communicated to the applicants through the order dt. 27-6-1996 of the 3rd respondent which are challenged in this O.A. It is submitted that the respondent

i.e. Union of India in O.A. 1337 and 1364 to 1375/1994 before the Bangalore Bench of the Central Administrative Tribunal put forth the contention that the 5th Pay Commission is entrusted with job of according pay scales with retrospective effect and the Tribunal by its judgement dt.31-3-95 has clearly held as follows:

" We do not subscribe to the view that is only the pay Commission which has to decide on the question of parity with JES of CPWD".

IN view of the above observation of the Bangalore Bench of the Central Administrative Tribunal the impugned orders in this O.A. have to be set aside.

14. It is further submitted that the pay Commission by its order in D.O.No. 50/4/94 dt. 17-1-1996 addressed to Shri Ghose opinioned that past cases may kindly be settled by the concerned Administrative Ministries at their level are requested that the above restriction on the scope of the Commission's Jurisdiction may also be clarified to the concerned judicial authorities whenever such matters came up for hearing. In view of the 5th Pay Commission's letter it is cristal clear that it cannot deal with retrospective fixations of pay and that it is to be settled by the respondents in this O.A. who are the appointing authorities.

15. Ministerial cadres in the Military Engineering service (L.D.C./U.D.C./O.S.) are similarly placed as ministerial cadres in the Department of posts. Therefore the Applicants are entitled to be benefit of time bound promotions which were granted to their counterparts in the Department of posts ~~through~~ through the introduction of Scheme for time bound promotions in 1980-85 further modified through the Department of Posts Leter No. 4-12/88 -DE-I (PT) dt. 22-7-1993 (Annexure-A5). Refusal to entertain plea for establishing parity between ministerial cadres in the Ministry of Defence and the Department

of posts is violative of the Principles of equal pay for equal work.

16. Subject to repetition it is submitted that in view of the fact that Ministerial staff in the Military Engineering Service perform functions requiring higher degree of professional Skills, Viz budgetting, maintenance of construction accounts for project works, procurement of stores, accounting of stores, cash handling Administration, assisting Engineering staff in preparation of estimates, planning for works and assisting in contract administration in contrast to the simple and routine functions performed by the Ministerial Staff in the Department of posts. ~~Far~~ Far from granting a more beneficial dispensation to the applicants, the respondents had gone to the other extreme position of granting less beneficial dispensation to the Applicants vis-a-vis their counterparts in the Department of posts. This is highly arbitrary. The minimum to which the Applicants are entitled is a dispensation which is the same as that granted to their counter parts in Department of posts.

17. The technical objection raised by the Ministry of Defence in entertaining the representations for removal of anomalies in the pay structure as stated in the impugned order dt. 14-6-1996 is an untenable objection. In a similar case involving parity between Superintendent and Junior Engineers in the Military Engineering Service, the Hon'ble Tribunal, Bangalore Bench had ruled vide judgement dt. 31-3-95 in O.A. No. 1337 and 1364-1375 of 1994, that the Government should take decisions on merits in the matter of anomalies in pay in past cases without regard to the fact that 5th pay Commission has already been constituted. The facts and circumstances regarding the case of the applicants are

substantially the same as those which was the subject matter of O.A.No. 1337 and 1364-1375 of 1994. Therefore the impugned orders dt. 14-6-1996 and 27-6-1996 have the effect of denying the applicants the benefit with the Hon'ble Tribunal declared as an admissible benefit with reference to the application of similarly placed persons. Therefore the impugned order is liable to be struck down.

18. The Government of India, Ministry of Defence sanctioned through letter no. PC - 90237/4603/EIC (legal)/93/D (works dt. 25-4-1996, a scheme for promotions to Superintendent (BR/EM) Surveyor Assistants Grade I and Grade II. This scheme has all the attributes of a scheme for time bound promotion. The Government however tactfully avoided usage of the expression "time bound promotion". As the principle of time bound promotions has been accepted by the Ministry of Defence there is no justification for denying benefit of the same in principle to the Ministerial cadres in the Military Engineering Service.

19. The 4th Pay Commission emphasised that they were recommending revision of pay scales at interval of 3 years as an alternative to the scheme for selection grade appointments. The Government accepted the recommendations and abolished the scheme of selection grade appointments and gave instructions that pay revisions should be conducted at an interval of three years so as to provide reasonable promotion avenues to all the cadres. What the respondents have done is exactly opposite of what the 4th Pay Commission and the Government of India envisaged. Instead of offering a new benefit in lieu of an old benefits. They implemented the orders of abolition of selection grade and at the same time failed to extend suitable pay scales in 1990 by Ministry of Defence during this decade (1986-96) as against the three earlier pay scales due in 1989

1992 and 1995 was perfunctory and was not comprehensive in scope. To further aggravate the injustice, the single beneficial recommendation of the 4th pay Commission (1990) for merging the two grades of Office Superintendent into a single pay scale and sanctioning of pay scale of Rs. 1640-2,900 was totally ignored without placing on record the reasons for not implementing the recommended measure. These actions of the respondents are highly prejudicial to the applicants to whom a benefit promised by Government of India at the time of abolition of the system of selection grades has been illegally denied.

20. It is submitted that the Bangalore Bench of the Central Administrative Tribunal in O.A. No. 1337 and 1364 to 1375 of 1994 dt 31-3-1995 held as follows:

- i) When applicants - Gr. II Supdts. have been treated on par with JE's of CPWD before 3rd PC, during 3rd PC and during 4th PC and when the Dmen in MES who are in scale lower than that of Grade I and II Supdts. whose applications for upward revision of their pay scale were allowed on par with that of the revised pay scale of JEs in CPWD which was revised in pursuance of Arbitration Award, we see no justification for the rejection of the representation of the applicants. The rejection is highly arbitrary and unjust.
- ii) The contention of the respondents that upward revision of pay scales of D men was only in pursuance of the directions of the various Benches of this Tribunal, implying thereby that because there is no such direction of the Tribunal in respect of the applicants and as such, ~~that~~ their pay scales cannot be revised is nothing but an act of discrimination calling for our interference.
- iii) The respondents cannot avoid to take the decision by passing on the responsibility to the 5th pay Commission it is observed that:-

The respondents cannot avoid to consider the claim of the applicants on the ground that 5th PC would be competent to consider their problem.

"The respondents cannot avoid to consider the claim on the ground that the 5th pay Commission would be competent to consider their problem."

iv) The argument of the ~~a~~ belated claim as taken by the respondents are rejected on the grounds that the applicants were agitating since 1992.

Coming to the objections of delay taken by respondents, we have to point out that the applicants have been agitating since 1992 when they filed O.A.No. 329/92 after rejection of their claim on 28-6-1991. They were aggrieved because of upward revision of pay scales of JES in CPWD in pursuance of arbitration award as in Annexure A-2 dt. 22-3-1991 ~~which~~ which was implemented by OM dt. 27-3-1991 (Annexure A-3) which in turn was not made applicable to them. The grievance of the applicants in these applications is in respect of annexure A-10 dt. 8-4-1994 and they have filed these applications on 19-8-1994.

What is stated herein is so eloquent that no discussion is called for to demonstrate that the applications are in time and not ~~a~~ belated as sought to be made out by respondents.

v) The CAT also observed that they are competent to have a Judicial review of the entire matter.

vi) It is further observed in para 12 of the judgement that :

"They have simply stated that Ministry of Defence after careful consideration of the proposal had decided to refer the matter for consideration of pay Commission when constituted and then proceeded to reject the representations of the applicants. We do not subscribe to the view that is only the pay Commission which has to decide on the question ~~of~~ of parity with JES of CPWD".

vii) In para 14 of the judgement, it is observed that:-

"If Government were to accept such recommendations this will only have prospective effect " leaving the others, due to the delay on the part of the Respondents."

viii) The applicants' claims are tenable as the promotion opportunities are very bleak and there in stagnation.

21. The applicants case is also similar to the one as decided by the Bangalore Bench of the Central Administrative Tribunal and the said decision applies to the applicants in this O.A. also.

22. The Jammu and Kashmir High Court has been pleased to pass the following order on 5-10-1996 . ' Annexure'.

It is pointed out by the petitioners that although their case is covered by the judgement of Central Administration Tribunal, Bangalore Bench in O.A.No. 1337 and 1364 to 1375/1994 and O.A.No. 1338 and 1376 to 1383/1994 and O.A.No. 534/1995, 1079 to 1086/1995 and 1389 to 1393/95, However the respondents are delaying the extention of the benefit covered by this decision in case of the petitioners thereby putting them to immense hardship and financial difficulties.

Prima-facie, contention of applicants appears to be quite justified. Therefore, 1st and 2nd respondents look into this grievances of the petitioners, pass order in this behalf and place the same along with reply.

23. It is further submitted that before the Central Administrative Tribunal, Bangalore Bench at Bangalore the clerical Employees Association and 4 other filed o.A. No. 969/1996 in which a notice before admission was ordered by the CAT, Bangalore directing the respondents therein to appear before the Tribunal on 14-11-1996. The applicants in this o.A. are also employees of the MES working under

the Jurisdiction of the Respondent no.4 herein and their case is similar to the one filed before that Hon'ble Tribunal.

24. It is submitted the Technical personnel in the Department of MES are very less when compared to the Clerical personnel. The Government has extended higher pay scales to the Technical personnel on account of stagnation and denied the same to the clerical cadre though their functions are more arduous in nature. This is highly discriminatory being violative of Art. 14 which calls for the interference of this Hon'ble Tribunal.

7. DETAILS OF THE REMEDIES EXHAUSTED:

The applicants further declare that they have availed of all the remedies available to them under the relevant service rules etc.,

8. Matters are not previously filed or pending with any other Court:

The applicants further declare that they have not previously filed any application, Writ petition or Suit regarding the matter in respect of which this application has been made, before any Court of Law or any other authority or any other Bench of the Tribunal and no such Application, Writ petition or suit is pending before any of them.

9. MAIN PRAYER: It is therefore prayed that this Hon'ble Bench may be pleased to direct the respondents to accord the promotions-1 benefits of the time bound higher pay scales to the applicants ~~or suit is pending~~ in the below noted Order:

1) MANDAMUS: Commanding the respondents to accord the promotional benefits of time bound higher pay scales to the applicants in the below noted order:

- a) L.D.C.(Scale Rs. 950 - 1500) after completion of 8 years of service. - To be placed in next higher grade Rs.1200-2040 w.e.f. 1.1.1986 or date of completion of 8 years of service.
- b) i) U.D.C.(Scale 1200-2040) after completion of 5 years of service in the grade. - To be placed in next higher grade of Rs. 1400 - 2800 w.e.f. 1-1-1986 or after completion of 13 years of total service.

By setting aside the orders of the 1st respondent issued in proceedings No. 90270/27/SC/EIC/ (3) dt. 14-6-1996 and the orders of the 2nd respondent dt. 27-6-1996 ^{4th} issued in proceedings No. 132406/Cadre review /GP 'C'/EIB/

(3) and pass such further and other order orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

10. INTERIM Prayer: It is therefore prayed that this Hon'ble Tribunal may be pleased to expedite the hearing of the case.

11. PARTICULARS OF THE APPLICATION FEE:

I.P.O. No. & Date : 019356 dt 25/11/26 drawn by the Andhra Pradesh, Hyderabad.

Name of the Post office: Sadar Bazar

12. LIST OF ENCLOSURES: Covers, Acknowledgements and pads, 1 Rs. 50/-

COUNSEL FOR THE APPLICANTS.

~~192/26/D.D./Remove~~

VERIFICATION

I, C.Narasimha Chary, S/o. Late C. Daviah Chary, aged about 54 years, working as U.D.C. in the office of the Garrison Engineer (I) R & D Chandrayangutta, Hyderabad -5 do here by verify that the above stated facts in paras 1 to 6 are true to personal Knowledge and 7 to 12 paras are true to legal advice from counsel and I am not suppressed any material facts.

Hyderabad.
Dt.

Signature of the 1st applicant.

To the Registrar,
Central Administrative Tribunal,
Hyderabad Bench. Hyderabad.

18

VERIFICATION

We, the undersigned do hereby verify that the above stated facts in paras 1 to 6 are true to our personal knowledge and 7 to 12 paras are true to legal advice from my Counsel and we have not suppressed any material facts.

S/Shri
CHANDRAYANGUTTA

- | | | |
|-------------|--|-----------------|
| <u>UDCs</u> | | |
| 1. | A/9560247
C Narasimha Chary
S/o Late C Daviah Chary. | 13-03-64 54 yrs |
| 2. | MES/141057
P Krishnan S/o P Bonthaiah. | 24-12-63 52 yrs |
| 3. | MES/436527
N.V John S/o Varghese. | 06-01-66 50 yrs |
| 4. | A/9607032
Smt US Jayalakshmi
W/o S.Sunder Kumar. | 01-11-63 53 yrs |
| 5. | MES/145251
SBM Imani S/o Mohnd Imani. | 26-04-68 50 yrs |
| 6. | MES/116533
Mohd Ali S/o Syed Moinuddin. | 09-02-73 47 yrs |
| 7. | MES/190259
Kum P Vijaya
D/o P Chinnabbai. | 01-04-85 36 yrs |
| <u>LDCs</u> | | |
| 8. | MES/145248
D Sanjeeva Rao
S/o Late D Vasudeva Rao. | 15-07-67 47 yrs |
| 9. | MES/190238
Y Seetharam Reddy
S/o Late Y Padma Reddy. | 29-12-83 40 yrs |

[Handwritten signatures and initials corresponding to each entry in the list]

Contd...

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- 2 -

- | | | |
|---|----------|--------|
| 10. MES/190256
I Srinivas Rao
S/o Seetharamulu. | 01-04-85 | 35 yrs |
| 11. MES/190271
G.N. Sree Hari Ram,
S/o Late GS Narasimloo. | 08-04-85 | 39 yrs |
| 12. MES/190279
Amjed Hussain
S/o Late Ahmed Hussain. | 23-04-85 | 30 yrs |
| 13. A/1091880
PS Gulawane S/o SB Gulawane. | 23-04-84 | 33 yrs |
| 14. MES/503594
Shahul Hameed MM
S/o Late Shri Mohd K Rawther. | 29-03-79 | 41 yrs |
| 15. MES/189210
Smt E Waralaxmi
W/o Shri EB Prakash Rao. | 15-12-83 | 39 yrs |
| 16. MES/209706
K Alok Kumar
S/o Late Kailash Prasad. | 29-06-84 | 34 yrs |

KANCHANBAGH

- | | | |
|---|----------|--------|
| <u>UDCs</u> | | |
| 17. MES/418020
A Subramanian
S/o Late CS Ardharanary Iyer | 28-06-63 | 54 yrs |
| 18. MES/120002
KA Nair S/o Krishnan Nair | 16-01-71 | 46 yrs |
| 19. MES/190209
Smt P Tirupathi Bai,
W/o DA Naik. | 01-12-81 | 40 yrs |
| 20. MES/126804
Smt D Jayashree
W/o D Venkateshwar Rao. | 09-10-73 | 45 yrs |
| 21. MES/190332
Smt B Chandrakala
W/o Shiv Shanker. | 01-04-85 | 40 yrs |
| <u>LDOs</u> | | |
| 22. MES/190323
Smt K Sujatha
W/o K Murali. | 01-04-85 | 35 yrs |
| 23. MES/190317
T Sharvan Kumar
S/o T Shankaraiah. | 01-04-85 | 35 yrs |
| 24. MES/190318
B Brahmananda Chary
S/o B Govinda Chary | 01-04-85 | 35 yrs |

Cont d...

18c

- 3 -

25. MES/190284 Smt GT Janaki W/o GTV Ranga Charyulu.	09-12-85	43 yrs
26. MES/196736 AR Ashref Hussain Jaffar S/o Late AR Mohd Jaffar.	26-07-89	24 yrs
27. A/15295444 P Maheswar S/o Babu Ram.	23-05-81	35 yrs
28. MES/196732 Smt Premalatha Hariharan.K. W/o K Hariharan.	01-06-88	36 yrs
29. MES/196736 Syed Waheed Ahmed S/o Dastagir.	06-04-91	25 yrs

y T. Somaji

Amul

Melium

Premalatha

Amul

- 30 VRC CHOWDARY, UDC
S/o VV Ramana Retnam
DGNP Visakhapatnam
- 31 GSN Reddy, LDC
S/o S. Reddy
DGNP Visakhapatnam
- 32 P Satya Rao, LDC
S/o P A Naidu
DGNP Visakhapatnam
- 33 IVVSG Prasad, LDC
S/o Late I J Swamy
DGNP Visakhapatnam
- 34 CH Ramoji, UDC
S/o Late Ch Suryanarayana
DGNP Visakhapatnam
- 35 MV Sasidharan, LDC
S/o Vasu
DGNP Visakhapatnam
- 36 P Prakash Rao, LDC
S/o P Joseph
DGNP Visakhapatnam
- 37 JVSB Giridhara Rao, LDC
S/o Late Suryanarayana
DGNP Visakhapatnam
- 38 MV Rajeswara Rao, LDC
S/o MVS Rao
DGNP Visakhapatnam
- 39 K Venkatesan, LDC
S/o R Krishnan
DGNP Visakhapatnam
- 40 IS Prasad Rao, LDC
S/o IN Raju
DGNP Visakhapatnam
- 41 Venkoba Rao, UDC
S/o Venkata Rao
DGNP Visakhapatnam
- 42 Smt. S Parvathi
W/o GG Giridhari
DGNP Visakhapatnam
- 43 K Jayanti Babu, LDC
S/o Late Venkata Das
AGE (R & D) NSTL, Vizag

V. M. Chowdary

1. V.
1 GSN Reddy
P. S. Rao

J. V. V. S. G. Prasad

Ch. Ramoji
Smt. S. Parvathi

P. Prakash Rao
P.

S. Rao

K. Venkatesan

J. S. Ravada Rao

Venkoba Rao

S. K.

K. Jayanti Babu

Control Room
Applicant

/COPY/

Tele : 3019107

Army Headquarters
Engineer-in-Chief's Branch
Lashmir House, DHQ FC
New Delhi - 110011

90270/27/SC/EIC(3)

14 Jun 96

Chief Engineer
Southern Command
Pune

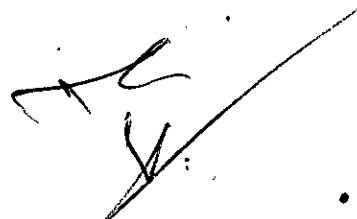
PROMOTION/FITMENT OF SCALE/TIME SCALE
GROUP 'C' AND 'D' EMPLOYEES

1. Reference your letter No. 132406/2/Cadre Review/GF 'C' / EIB(S) dated 04 Jun 96.
2. Min of Defence has given ruling that Government will not entertain any representation from any individual/Group regarding pay anomaly till the announcement of the Fifth Central Commission Report.
3. In view of the above representations received vide your letter referred above are returned herewith in original.

Encls: As stated

Sd/- x x x x x
(RC Joshi)
Col
Dir EIC

/ COPY /



Telephone : 602906

20
A2
Parashin Kuman Mukhyalaya
Engineer Shikha
Headquarters Southern Command
Engineers Branch
Pune-1

132406/2/Cadre Review/Gp 'C'/EIB(S)

27 Jun 96

Chief Engineer
(Navy) Vizag
(AF) Bangalore
Pune Zone, Pune
(D&S) Pune
Madras Zone, Madras
DG MP Vizag
STE SC Pune

PROMOTION/FITNESS OF SCALE/TIME SCALE
GP 'C' & GP 'D' EMPLOYEES

1. Ref your letter and replies thereon.
2. In this connection, a copy of Einc's Br. letter No. 90270/27/SC/EIC(3) dated 14 Jun 95 is forwarded herewith.
3. In view of the above, no representations will be entertained in future as stated in para 2 of Einc's Br. letter quoted in para 2 above. The applicant may please be informed accordingly.

(B. Kelgane)
SAC
SO 2 (Pers)
for Chief Engineer

Encl : on reverse

Copy to:-

Chief Engineer
(AF) Ahmedabad
Jaipur Zone, Jaipur
(Navy) Kochi
(Navy) Port Blair
(F) Fy Bolangir
Hyderabad Zone, Sec'bad
R&D Secunderabad
ESD Dehi Road
Comdt CIE
DG MP Bombay
GE(I) Vizag
(Navy) Bombay

Some of Zonal CEs have forwarded representations regarding pay anomaly of Gp 'C' & 'D'. The same has turned down by Einc's Br. In this connection, a copy of Einc's Br. letter quoted in para 2 above is enclosed herewith for necessary action. No representation on the above subject need be sent to this HQ in future.
Encl : on reverse

Internal

EIO(S) - together with a copy of Einc's Br. letter quoted in para 2 above for necessary action.

Copy to :-

Shri EXR PG Palmanabhan, Secretary AINSCOGDEA
C/o GE (AF) Bangalore
HQ Trg Comd, IAF Campus

TC
6

- 21 -
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE Bench

A3
Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 031.

Dated: 6 APR 1995

APPLICATION NO. 1337 and 1384 to 1375 of 1994.

APPLICANTS: Sri.B.N.Kadapatti and twelve others.,
V/S.

RESPONDENTS: The Secretary, Ministry of Defence,
New Delhi and another.

To

1. Sri.N.G. Phadke, Advocate,
'Kausalya', No.502/40,
Fiftyfourth Cross, III-Block,
Rajajinagar, Bangalore-560 010.

2. Sri.M.Vasudeva Rao, Additional Central
Government, Standing Counsel,
High Court Bldg, Bangalore-560 001.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-23.

---xxx---

Please find enclosed herewith a copy of the Order/
Stay Order/Interim Order, passed by this Tribunal in the above
mentioned application(s) on 11.03.1995.

3822

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. No. 1337 & 1364 TO 1375/94

FRIDAY THIS THE THIRTY FIRST DAY OF MARCH 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

1. Shri B.N. Kadapatti,
S/o Ningayya Kadapatti,
Aged about 54 years,
C/o AGE [I] AF Sambre,
Belgaum.
2. Shri P.R. Malkari,
S/o Ramachandra Malkari,
Aged about 54 years,
C/o AGE [I], AF Sambre,
Belgaum.
3. Shri M.M. Shirur,
S/o Mahadevappa Shirur,
Aged about 48 years,
C/o G.E., Camp, Belgaum.
4. Shri V.I. Chavan,
S/o Iaxman Chavan,
Aged about 41 years,
C/o G.E., Camp Belgaum.
5. Shri S.L. Dubbanmardi,
S/o Lingaraj Y. Dubbanmardi,
Aged about 35 years,
C/o AGE [I], AF Sambre,
Belgaum.
6. Shri S.N. Muchanndi,
S/o Narayan Muchandi,
Aged about 32 years,
C/o G.E., Camp, Camp-Belgaum.
7. Narayan Tarihalkar,
S/o Rama Tarihalkar,
Aged about 32 years,
C/o G.E., Camp-Belgaum.
8. A.J. Jolly,
S/o Joseph,
Aged about 30 years,
C/o G.E., Panaji.

- 39-23-
9. Shri Anilkumar, P.K.,
S/o P.V. Krishnan,
Aged about 29 years,
C/o Garrison Engineer,
Camp Belgaum-590 009.
 10. S.B. Iaad,
S/o Babu Rao I. Iaad,
Aged about 33 years,
C/o G.E., Camp-Belgaum.
 11. Shri S.R. Hosurkar,
S/o R.K. Hosurkar,
Aged about 32 years,
C/o AGE (I), AF, Sambre,
Belgaum.
 12. Shri V.B. Padmanabhan,
S/o Shri V.B. Krishnan Gurukkas,
Aged about 33 years,
AC/o AGE (I) AF, Sambre.
Belgaum.
 13. Shri Mathew Baby,
S/o Shri P. Mathi,
Aged about 52 years,
C/o G.E., Camp
Belgaum.

... Applicants

(By Advocate Shri N.G. Phadke)

vs.

1. Union of India
represented by its
Secretary,
Ministry of Defence,
New Delhi.

2. The Engineer-in-Chief,
Kashmira House,
Army Headquarters,
DIIQ Post Office,
New Delhi-110 011.

... Respondents

[By Advocate Shri M. Vasudeva Rao ...
Addl. Standing Counsel for Central Govt.]

ORDER

Shri A.N. Vajjanarodhya, Haml (1):

1. The applicants are aggrieved by the order of
- M

24- - 3 -

Respondent ('R' for short) No.2. dated in Annexure A-10 rejecting their claim of parity in the grade of Superintendents ('S' short) 1 and 2 in the Military Engineering Service ('MES' for short) on par with Junior Engineers ('JE' for short) of Central Public Works Department ('CPWD' for short), have filed these applications.

2. Briefly stated the case of the applicants is as below:

Applicants are working as Grade II Supdt. in the branch of buildings and roads, electrical, mechanical and supervising assistants in the MES of the Defence Ministry. The post of Supdt. Gr.II in the MES is equivalent to the post of JE in CPWD. The pay scales of Supdt. Gr.II in MES and that of JE in CPWD before 3rd Pay Commission ('PC' for short), during 3rd PC and during 4th PC was the same. Gr.II Supdts. were placed throughout in the higher grade as that of Draughtsmen ('Dmen' for short) were different as also their natures of duties. The pay scales of Dmen Gr.I, II and III in CPWD were revised upwards on the basis of the award of the Board of Arbitration and, therefore, Govt. of India issued order dated 13.3.1984 as in Annexure A-1 and the pay scale of Dmen in all the departments of CPWD were revised upwards. However, the Dmen of MES who were in the lower rank and grade to that of Supdt. Gr.II were not provided with upper

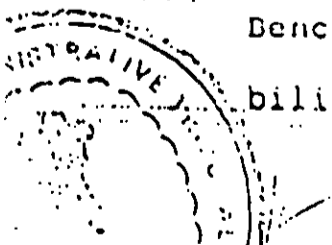


revision and, therefore, those people approaching various benches of this Tribunal and sought for a direction for grant of revision of pay scales as comparable to that of Dmen of CPWD which were allowed. Keeping the recommendation of 4th PC in mind Govt. of India in its Ministry of Urban Development ['MUP' for short], revised the pay scales of selection grade JE of CPWD by letter/order dated 22.3.1991 as in Annexure A-2 i.e., the scale of pay at the time of entry Rs.1400-2300; after five years Rs.1640-2900; after total 15years on personal basis Rs.2000-3500. In pursuance of the said order CPWD issued Office Memorandum dated 27.3.1991 adopting the same as in Annexure A-3. The applicants having come to know that the Dmen in MES who are in the lower rank and grade and responsibility have been provided with the pay scales of Rs.1400-2300, the scale of Gr. II Supdts. and also JEs of CPWD who are performing similar nature of job have been benefitted with the higher pay scale of Rs.1640-2900 and the other two scales referred to supra; made representations to R-2 which were rejected. Therefore, the applicants have filed O.A. Nos.329 and 330/92 as in Annexure A-4 which was disposed of by order dated 20.7.1993 as in Annexure A-5 giving the direction that the Government would dispose of the representations of the applicants within three months from that date. The applicants made representations dated 9.9.1993 as in Annexure A-6 along with

the copy of the order for necessary relief. The respondents did not comply with the directions given by this Tribunal and, therefore, they filed C.P. No. 18/94 against the respondents. After receipt of notice from the Tribunal respondents issued order dated 3.4.1994 as in Annexure A-10 stating that considering all aspects the Ministry had referred the matter for the decision of 5th PC. Therefore, the CP filed by the applicants was disposed of on 21.7.1994 as in annexure A-11 giving liberty to the applicants to challenge the order issued by R-2. Thus, the applicants have made these applications seeking the following reliefs:

- a) To quash the order issued by R-2 dated 3.4.1994 as in annexure A-10;
- b) To grant the claim of the applicants for higher scales of pay as that paid to JEs of CPWD in the pay scale of Rs.1640-2900 to this grade II Supdts., as and when they completed 5 years of service in the grade with effect from 1.1.1986 and who have completed 15 years service in that grade and the scale of pay of Rs.2000-3500 with effect from 1.1.1991 by holding that action of the respondents in rejecting the claim of Gr.II and Gr.I Supdts. of MES as bad and for consequent reliefs.

3. The respondents oppose the applications contending that the same are belated, that even in MES were granted the relief in view of the directions of the various Benches of CAT; that evaluation of duties and responsibilities and fixation of pay scales can be gone into



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only by expert body like PC and that the action of the department is not open to judicial review.

4. We have heard Shri N.C. Phadke, learned counsel for applicants and Shri M. Vasudeva Rao, learned Standing Counsel for the respondents.

5. Learned counsel for the applicants contended that the entire qualifications, duties and responsibilities of both Supdts. Gr. II in MES and the JEs in CPWD are identical and similar and the rejection of the request of the applicants is not justifiable particularly when Dmen Gr.I, II and III of MES have been given the relief even though they were earlier in a lower scale compared to Supdts. Gr.I and II. He also contended that 3rd and 4th PCs have recommended the same scales of pay for both Supdts. Gr.II in MES and JEs in CPWD and, therefore, when the pay scales of JEs in CPWD was revised upwardly the same benefit ought to have been extended to the applicants also. It was also pointed out that there has been very little promotional opportunity for the Supdts. Gr.II and they have been stagnating and for this reason also they are justified in urging for grant of equal pay scale as that of JEs in CPWD. Shri Rao on the other hand contended that evaluation of duties and responsibilities and fixation of pay scales can be gone into only by expert body like PC which is seized of the matter and, therefore, the applicants are not entitled

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to any relief in these applications. Relying on the decision of STATE OF UTTAR PRADESH V. J.B. CHOWRASIA and other decisions, Shri Rao contended that fixation of pay scales is the duty of expert body after taking into consideration the various factors and it would not be proper for this Tribunal to go into the claim of the applicants. He also contended that the applications are belated and the relief granted to Dmen in MES was only on the basis of the direction of the various Benches of this Tribunal.

7. It is not disputed that the scale of pay of Gr.II Supdts. in MES and JES in CPWD before 3rd PC, during 3rd PC and during 4th PC was identical i.e., Rs.180-380, Rs.425-700 and Rs.1400-2300 respectively. But Gr.II Supdts. were placed through out in the higher grade as compared to Dmen working in MES, which are as below:.

	Gr. II Supdts.	Draughtsmen
<u>Before 3rd PC</u>	Rs.180-380	Rs.150-240
<u>During 3rd PC</u>	Rs.425-700	Rs.330-560
<u>During 4th PC</u>	<u>Rs.1400-2300</u>	Rs.1200-2040

Admittedly the pay scales of Dmen Gr.I, II and III working in CPWD were revised upward on the basis of the award of Board of Arbitration and thereafter Govt of India issued order dated 13.3.1984 (Annexure A-1)

But Dmen in MES who were lower in rank and grade to



that of Gr.II Supdt. were not provided with up a revision of pay scales. These Dmen approached various Benches of this Tribunal for grant of revision of pay scales comparable to that of Dmen in CPWD, which were allowed granting the pay scale of Rs.1400-2300 from 1.1.1986. On the recommendation of 4th PC, Union of India took remedial measures in pursuance of which MUD revised the pay scales of Selection Grade JEs of CPWD by order dated 22.3.1991 (Annexure A-2) as follows:

Scale at the time of entry Rs.1400-2300

After five years Rs.1640-2900

After total 15 years on personal basis Rs.2000--
3500

Pursuant to the same Annexure A-3 O.M. dated 27.3.1991 came to be issued by Director General of Works, CPWD.

As the representation of applicants in this regard for upward revision of their pay scale was rejected, they filed O.A. No.329 to 330/92 which was disposed of by order dated 20.7.1993 by this Tribunal directing the Government to dispose off the representation taking into consideration the pleadings also. The representation was considered and rejected by R-2 on 8.4.1994 (Annexure A-10) inter alia stating --

"The case regarding award of time scale promotion to Supdt B/R & E/M Gde II and Gde I at par with Jr. Engrs. of CPWD on the basis of award given by Board of Arbitration of CPWD to their personnel has been taken up with Min. of Def. for their consideration. Min. of Def. after

careful consideration of the proposal has decided to refer the matter for the consideration of Pay Commission when constituted."

In view of the stand of Government, Contempt Petition filed by applicants in C.P. No.18/94 was disposed off by order dated 27.7.1994 [Annexure A-11] granting liberty to the applicants to challenge the order in Annexure A-10 dated 8.4.1994. Thus once again the present applicants are before us.

8. (When the applicants - Gr.II Supdts. have been treated on par with JEs of CPWD before 3rd PC, during 3rd PC and during 4th PC and when the Dmen in MES who were in scale lower than that of Dmen-in-MES, ^{Gr.II Supdts.} whose applications for upward revision of their pay scale were allowed on par with that of the revised pay scale of JEs in CPWD which was revised in pursuance of Arbitration Award, we see no justification for the rejection of the representation of the applicants. The rejection is highly arbitrary and unjust⁽¹⁾ (The contention of the respondents that upward revision of pay scales of Dmen was only in pursuance of the directions of the various Benches of this Tribunal, implying thereby that because there is no such direction of the Tribunal in respect of the applicants and as such, their pay scales cannot be revised is nothing but an act of discrimination calling for our interference.)

The learned Counsel for the applicants...

attention to para 10.482 of 4th PC report which reads thus:

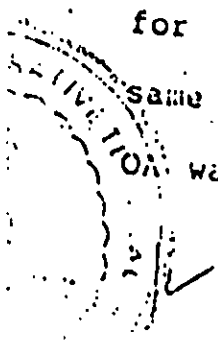
"10.482. The qualification for recruitment as well as duties and responsibilities of these posts compare with similar posts in other organisations like junior engineer in CPWD, B&R Cadre in MES and inspector of works cadre in Railways. The posts in the scale of Rs.425-700 in other departments are eligible for promotion to posts/-selection grade in the scale of Rs.550-900, but in the case of GREF the posts of superintendent B&R grade I and E&M grade-I have been placed in the scale of Rs.550-750. We recommend that these posts in the scale of Rs.550-750 may be placed in the scale of Rs.1640-2900 to bring uniformity at this level in various organisation."

and justified his contention to treat the applicants in the post of Gr.II Supdts. on par with that of JEs in CPWD. When the 4th PC has considered the posts like JE in CPWD, B&R Cadre in MES to which the applicants belong and Inspector of Works cadre in Railways are comparable and had recommended the same scale of pay of Rs.1640-2900, it is now not open to the respondents to contend that only expert body like 5th PC to which the matter is said to have been referred alone will have to consider. We do not find any substance in this contention of the respondents that only expert body like 5th PC can go into the question. (The respondents cannot avoid to consider the claim of the applicants on the ground that 5th PC would be competent to consider their problem.) It is rather curious to note that while the respondents contend that the applications are belated, they also contend

that 5th PC also a comp. ment to consider the ques-
tion. These are considerable contentions and are
mutually destructive

10. Coming to the objections of delay taken by respon-
dents, we have to point out that the applicants have
been agitating since 1992 when they filed OA No.329/92
after rejection of their claim on 28.6.1991. They
are aggrieved because of upward revision of pay scales
of JEs in CPWD in pursuance of arbitration award as
in Annexure A-2 dated 22.3.1991 which was implemented
by OM dated 27.3.1991 (Annexure A-3) which in turn
was not made applicable to them. The grievance of
the applicants in these applications is in respect
of Annexure A-10 dated 8.4.1994 and they have filed
these applications on 19.8.1994. What is stated herein
is so eloquent that no discussion is called for to
demonstrate that the applications are in time and
not belated as sought to be made out by respondents.

11. There is no force in the contention that the
order as in Annexure A-10 rejecting the representations
of the applicants and deciding to refer the matter
for consideration of the 5th PC is not open to judicial
review. The applicants had approached the Tribunal
earlier in O.A. No.329 and 330/92 and they had prayed
for a direction to the respondents to treat them on
same footing as their counterparts in CPWD. The said
OA was disposed of by the Tribunal on 20.7.1993 with



a direction that the Government should consider dispose of the representations made by the applicants seeking parity in the pay scales and to pass appropriate orders thereon.

12. The Tribunal had expected the Government to consider the points made in the representations of the applicants as also the pleadings in the applications particularly relating to their claim that they are similarly situated as JEs in CPWD in respect of duties and responsibilities and problem of stagnation, and had always been treated at par with the JEs of CPWD and also their contention that Dmen in MES who had all along been given a lower scale as compared to the applicants had now been brought at par with them.

After such consideration the department was required to take appropriate decision thereon. It is not clear from the communication dated 8.4.1994 as at Annexure A-10 as to whether the department had applied its mind to the points raised by the applicants and taken any view. (They) have simply stated that the Ministry of Defence after careful consideration of the proposal has decided to refer the matter for the consideration of PC when constituted and then proceeded to reject the representations of the applicants. We do not subscribe to the view that it is only the PC which has to decide on the question of parity with the JEs of CPWD asked for by the applicants. In fact as has

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been brought out earlier the successive PCs had treated Sr. II Supdts. of PPS at par with JEs of CPWD and had prescribed the same pay scales to both categories. The parity in pay scales date back prior to the recommendation of 3rd PC and was continued both at the time of revised pay scales given on the basis of recommendations of 3rd and 4th PCs. In fact from the observation of the PC in para 10.402 it is clear that the PC had taken the view on the duties and responsibilities of JEs in CPWD are similar compared with the post in B&E cadre in MES and had recommended the same pay scales to both the categories. It was only after the Arbitration Award given pertaining to Dmen the pay scales of JEs in CPWD got upgraded. Such it is not a case where the PC has to consider afresh the question as to whether the applicants should be treated at par with JEs of CPWD, as successive PCs had in fact been holding that they were similarly situated and had to be given the same treatment. The respondents have not taken their stand that there has been any qualitative increase in the duties and responsibilities of JEs in CPWD as compared to their counterparts in MES after the implementation of the 4th PC. In the reply statement filed by the respondents, we find there is a reference that the respondents cannot be expected to offer reply on all services conditions prevailing in CPWD. From the tenor of the reply it would seem that the Government does not

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think that there is any material difference between the duties and responsibilities of JEs of CPWD as compared to their counterparts in MES.

13. We may also mention that the PC will make its recommendations keeping in view the suggestions of various departments. It cannot undertake a task of conducting a job evaluation to determine relative work of change and different posts. We may in this context refer to para 11.9 of the report of the 4th PC which reads as follows:

11.9. We have considered the matter. We feel that these suggestions actually relate to job evaluation to determine relative worth of charge of different posts. It is not possible for us to undertake this work. At a certain point of time a post in an establishment may have equation to a post in another establishment, but due to changes brought about by modernisation, change in the pattern of work, etc. it may have been necessary to regard the post and the question of maintaining parity may not really arise. We therefore do not agree that the parities wherever they are said to be, should always be maintained. It may be mentioned that the scales of pay of different levels of draftsmen were revised upwards on the basis of an Arbitration award to remove certain grievances arising out of implementation of Third Pay Commission's recommendations. Revision of pay scales of draftsmen does not therefore entitle the junior engineers to ask for similar benefits."

As such the 5th PC will also expect the departments to furnish the details with regard to the nature of duties and responsibilities of various posts so that it has a basis for making comparative assessment. It is therefore incumbent upon the department to make such a study and to formulate specific views on this.

question and the responsibility cannot be simply passed on to the

14. The reference to 5th PC has also another implication which has been taken into consideration. If on the basis of various materials before it, the 5th PC also takes the same view as its predecessors and recommend parity in pay scales between JEs of CPWD and Supdts. Gr.II in MES and if Government were to accept such recommendations, this will only have prospective effect. If Gr. II Supdts. in MES in fact deserve to be treated at par with the JEs in CPWD it would be unreasonable if there is substantial delay in extending these benefits when they had been agitating for these benefits for a number of years.

15. It is submitted before us that the Dmen in MES were all along given pay scales which were lower as compared to the Gr.II Supdts. in MES. Pay scale of Dmen has since been upgraded to the same level as that of Gr.II Supdts. in MES. The applicants contend that in order to maintain relativity, their pay scales also should be upgraded to be at par with JEs in CPWD. There is force in this contention and this has not been met by the respondents.

16. Having regard to our earlier discussion, the respondents cannot get much support from the decision in STATE OF UTTAR PRADESH v. COMPTROLLER [1989] SCC 121 which deals with the case having factors justifying

differentiation depending on the evaluation of duties and responsibilities. In the case of hand the post of Gr.II Supdt. and JEs in CPWD have always been treated on par and there is no question of evaluation of duties that is required to be gone into by expert body. The difference between Gr. II Supdts. and JEs in CPWD sought to be made out by the respondents is without any distinction in view of the parity in pay scales maintained since prior to 3rd PC as also the observations in the report of 4th PC.

17. It is the further plea of applicants that their promotional opportunities is very bleak and the said position is not seriously disputed by the respondents. This is yet another factor weighing in favour of the applicants for their claim to be treated on par with that of JEs in CPWD getting higher grades on completion of service of 5 years and 15 years with effect from 1.1.1986 and 1.1.1991 as in Annexures A-2 and A-3.

18. For the reasons discussed above we deem it proper to allow the applications and grant the reliefs sought. Consequently Annexure A-10 order dated 8.4.1994 issued by R-2 is hereby quashed. We further direct the respondents to grant higher pay scales as that paid to JEs in CPWD in the scale of Rs.1640-2900 to the applicants in Gr.II Supdt. who as and when complete 5 years of service in the grade with effect from 1.1.1986 and who as and when complete 15 years of service in that grade the scale of Rs.2000-3500 with effect from

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1.1.1991 on the same lines as contained in the communication of the Government dated 21.1.1991 addressed to the CPWD as in Annexure A-2. The direction should be complied with within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

31/1/91

MEMBER (J)

Sd/-

MEMBER (A)



TRUE COPY

[Signature]
Secretary Office

Central Administrative Tribunal
Bangalore Bench
Bangalore

[Handwritten marks]

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A4
No PC-90237/4603/E1C(Legal)/1993/D(Work.
Government of India
Ministry of Defence

New Delhi, dt the 25th April, 1996

To

The Chief of Army Staff

Subject : Implementation of CAT Bangalore Bench Judgement
in OA No 1337 and 1364 to 1375/94, OA No 1338 &
1376 to 1382/94 and OA No 534/95, 1079 to 1086/95
and 1389 to 1393/95

Sir,

I am directed to refer to the judgement and order of
Hon'ble CAT Bangalore Bench dated 31.3.95 and 15.6.95 in the
above mentioned OAs and to convey the sanction of the President
to the grant of higher pay scales as that being paid to JEs in
CPWD in the following manner to the Superintendents (BR/EM)/
Surveyor Assistants Grade I and Grade II of MES :-

- (a) There will be two scales of pay for Superintendent
(BR/EM)/Surveyor Assistants Grade viz. Rs 1400-2300 and
Rs 1640-2900. The entry grade will be Rs 1400-2300.
The Superintendents/Surveyor Assistants, on completion
of 5 years service in the entry grade will be placed
in the scale of Rs 1640-2900, subject to the rejection
of unfit. This higher grade will not be treated as a
promotional one but will be non functional and the
benefit of FR 22 (I) (a) (i) will not be admissible,
while fixing the pay in the higher grade, as there
will be no change in duties and responsibilities.
- (b) Superintendents (BR/EM)/Surveyor Assistants, who
could not be promoted to the post of Assistant
Engineers/Junior Surveyor of Works in the scale of

...2/-

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Rs 2000-3500, due to non availability of vacancies in the grade of Assistant Engineers/Junior Surveyor of Works, will be allowed the scale of Assistant Engineers/Junior Surveyor of Works ie Rs 2000-3500, on a personal basis, after completion of 15 years of total service as Superintendents (BR/EM)/Surveyor Assistants. This personal promotion will be on fitness basis. As and when regular vacancies in their grade of Assistant Engineers/Junior Surveyor of Works arise such officers who enjoy personal promotion will be adjusted against those vacancies, subject to observance of normal procedure.

(iii) In the matter of pay fixation, the Superintendents BR/EM/Surveyor Assistants who are allowed the scale of Rs 2000-3500 on personal basis will get the benefit of FR 22(I) (a) (1).

(iv) On being granted personal promotion to the grade of Assistant Engineers/Junior Surveyor of Works, the Superintendents/Surveyor Assistants will continue to perform the same duties/functions of Superintendents/Surveyor Assistants.

2. The orders regarding placement in the scale of Rs 1640-2900 after 5 years of service will be effective from 01.01.1986 while those relating to personal promotion after 15 years of service will be effective from 01.01.1991.

3. This issues with the concurrence of Defence (Finance) vide their UO No 826/W-I/96 dt 26.04.96.

Yours faithfully,
Sd/- x x x
(MV Vijayan)
Desk Officer

Copy to :

1. CGDA, New Delhi
2. DA, SC, Pune, CDA, NC, C/O 56 APO, CE (AF) Bangalore
3. Defence (Finance)/Works
4. CAO/A-6
5. E-in-C's Branch
6. Department of Expenditure US(IC)
7. Shri AK Nayak, Fifth Central Pay Commission

GOVT OF INDIA DEPT OF POST LETTER NO 4-12/88-DE-I(Pt) dt. 22-7-93
OTBP and BCR Scheme to Group 'C' Staff of Administrative Offices
(Circle Offices) in Department of Post.

The question of extending the Time Bound One Promotion Scheme (TBOP) and Biennial Cadre Reviews (BCR) to the Group 'C' Staff of Administrative Offices (Circle Offices) has been under consideration for some time past.

2 It has now been decided to extend the benefit of the Time Bound One Promotion Scheme and Second Promotion after 26 years of satisfactory service to the clerical staff of administrative offices excluding posts like Hindi Translator, Librarian etc.

3. The following instructions are issued to ensure proper implementation of the scheme mentioned in para two, above.

3.1 The scheme will come into effect from 26.6.93.

3.2 The posts of LDCs (Rs 950-1500) and UDCs (Rs 1200-2040) in the Circle Offices, except to the extent of the LDCs/UDCs who opt to remain in the existing scale, will be abolished and an equal number of posts of time scale Postal Assistants (C.O.) (Rs 975-1660) will be created. The remaining posts will however, be converted as Postal Assistants (C.O.) as and when the concerned LDC/UDC ceases to hold the post. All the existing LDCs/UDCs will be required to furnish within one month their option under FR-2 according to which they may, if they so like, retain existing scale of pay which would be personal to such officials. The option one exercised will be final.

3.3. On replacement of the LDCs and UDCs by time scale Postal Assistants (C.O.) the existing duties of the LDC/UDC in the circle offices will be performed by the time scale Postal Assistants (C.O.) Senior Officials would be required to perform the duties at present entrusted to UDCs.

3.4 The officials who do not opt for their old scales will be brought into the grade of Postal Assistants (C.O.) and their pay will be fixed under FR 22(1)(a)(2) by treating the posts in the time scale as not involving assumption of higher duties and responsibilities.

3.5 10% of total non-gazetted sanctioned strength (excluding isolated posts) will be surrendered as matching savings with immediate effect on a permanent basis.

3.6 The existing officials who do not opt for the old scales would be considered for grant of first promotion in the higher scale of Rs 1400-2300 if they complete/have completed 16 yrs of service as LDC or as LDC and UDC or as Postal Assistants/Serling Assistants and UDC taken together and then for second promotion in the next higher scale of Rs 1600-2600 after completion of 26 yrs of service. Their pay on grant of promotion under Time Bound One Promotion Scheme and Second Promotion will be fixed under FR 22(1)(a)(1).

3.7 The UDCs who are drawing pay more than the maximum of the time scale pay (Rs 975-1600) and who opt for Postal Assistants Cadre (C.O.) to get the benefit of Time Bound One Promotion Scheme, will have their pay fixed at the maximum of the time scale of pay without any protection of the loss of pay already drawn.

3.8 With effect from the date of implementation of these orders, knowledge of typewriting will be essential for future recruits in the clerical cadre in Circle Offices in the pay scale of Rs 975-1600.

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3.9 The minimum educational qualifications for recruitment to the Postal Assistants grade in Circle Offices shall be 10 + 2. Further recruitment, if required, will be done by Circle Offices on an interim basis instead of through Staff Selection Commission till new recruitment rules are finalised.

3.10 The Circle Office Staff, as on 26.6.1993 will retain the existing liability for transfer between the Circle Office and the Regional Offices. In addition, their promotion under this Scheme will be conditional, subject to their liability for transfer to any unit located at the Headquarters station of Regional Office/ Circle Office.

3.11. The special pay Rs 70 p.m. being paid to UDCs will stand withdrawn from the date of introduction of this Scheme.

3.12 Under this scheme only such officials as have completed 16 and 26 years service in the Postal Assistants/UDC/LDC Grade will be eligible for promotion to the next higher grades of Rs 1,400-2,300 and Rs 1,600-2,660 respectively, if they are otherwise eligible. In case where a senior has not completed the prescribed period of service. Whereas his/her junior has become eligible, then only the junior shall be considered for promotion. However, when the senior completes the prescribed service and is adjudged suitable for promotion, then his/her original seniority will be restored vis-a-viz his/her juniors in the lower grade. In such cases promotion under this scheme will be subject to the condition that the senior employee shall not be able to claim benefit of higher pay fixation merely on the ground that officials who were junior to him in the lower grade are now drawing higher pay by virtue of early promotion.

3.13 In respect of orders which are covered under the scheme of Time Bound One Promotion, the orders issued vide Directorate No 39-19/74-PE-1 dated 15-6-1974 and Ministry of Finance O M No 7 (21)-E.II(A)/74 dated 10-1-1977 stands withdrawn with effect from 25-6-1993.

3.14 The existing LDCs/UDCs/LSG 1/3 quota officials who do not opt for this scheme will not be eligible for future consideration against the existing promotional channels. All recruitment to LDC, UDC and 1/3 LSG promotion quota will also be abolished on introduction of this scheme.

3.15 The officials who complete 16 or 26 years of service and who are promoted to the next higher scale of pay will continue to perform operative duties until and unless they are posted to regular supervisory posts.

3.16 For promotions under the Time Bound One Promotion Scheme and 2nd Promotion Scheme, the orders relating to the reservation for SC/ST communities already issued by this office on this subject may be followed.

4. The existing instructions is applicable to the different cadre to assess their fitness for promotion to the next higher scale of pay will be observed and the formalities in this regard should be completed within a period of three months. The promotions to the next higher scale of pay will be granted from the date of which the eligible officials complete 16 and 26 years of regular service respectively.

5. This is done with the concurrence of Ministry of Finance (Department of Expenditure vide D.O. No 2(24)/E.III/92 dated 11.5.1993 and No F.2265/IS(Per)/93 dated 25.6.1993 and in consultation with Finance Advisor (Postal) Dy No. 1979-FA/93 dated 16.7.1993.

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From :-

Army No. 9560247
CN Chary, UDC
c/o Garrison Engineer (P)
(I) R&D Chandrayanagutta
Hyderabad - 500 005

To,

The Engineer-in-Chief
Army Headquarters
Engineer-in-Chief's Branch
Kashmir House DHQ. PO
New Delhi - 110 011

(Through Proper Channel)

BENEFITS OF HIGHER SCALES OF PAY AS ON 01-01-86
AND 01-01-91 OR LATER ON COMPLETION OF 5 Yrs.
AND 15 Yrs OF SERVICE AT PAR WITH B/R &
E/M GRADE I AND GRADE II

Respected Sir,

1. I may kindly be permitted to state the following facts for your consideration and favourable orders for immediate implementation please :-

(A) SERVICE BIO DATA/SERVICE BIOGRAPHY

1. Date of continuous appointment CSM, T/clk/
LDC 13 Mar '1964.
2. Stagnated in LDC for 22 Years of Service without promotion (as per recruitment rules vide Gazettee of India, SRO and) I have been stagnated in the scale of LDC during Mar '1984.
3. During 23 Years of Service I have been promoted as UDC in Feb '1987.

(B) DUTIES OF OUR CLERICAL STAFF OF COMPARISON

In this connection I would like to bring the following facts regarding clerical cadre for your persual for granting Time Scale promotion :-

1. The Clerical cadre in MES plays a very significant and vital role in administration. They are the key personnel in presenting cases to the appropriate level with suggestion leaving the choice of decision to the authorities. Unlike the clerical Staff of other Central Govt Organisation, MES clerical Staff is required to move on posting very frequently due to down grading and raising units on and often as required and even to un-popular stations throughout the country including Port Blair and Car Nicobar which is mainly detached from main land and in emergencies to Border Road Organisation/Field areas similar to other Class III Staff.

Contd...P/2

2. The duties of clerical Staff in MES and that of other department like P&T, Railway, IT Excise etc are totally different. In other organisations the clerical cadre are required to do routine duties of purely clerical and general nature. The situation in MES is that the clerical cadre not only deals with establishment matters but attends to other works in different sections in addition to typing work, relating the construction of project and maintaining them. The clerks in other departments are entrusted with specific duties and the duties of these clerks between one department to other within the organisations Ministries or not inter-changeable. For instance clerks in P&T a commercial deals only with acceptance of amount and issuing receipts to the public. It is evident from the above that the specific job is entrusted to the concerned Staff and they need not have the "Know how" about the procedure and working system of the entire P&T whereas the clerical of the MES ought to know the clerical work handled by the sections, viz E-1 to E-8 of the Branches of MES Deptt. Therefore the Clerical work handled by the MES clerk are incomparable with the other departmental clerks of the Central Govt.
3. The Pay scales and promotion avenues available to the clerks of other Central Govt organisations like P&T, IT, Customs, LIC, Banks etc, are higher and better than the MES clerks. The clerical job in MES calls for Semi Technical work in as much as the associate themselves in the Engg. activities in the department for the three services. It is clerical staff in MES who handles the budget relating to the works in department including maintenance of Construction Accounts for each work. Besides, those clerks are supposed to be more thoroughly acquainted with rules and regulations pertaining to disciplinary cases, pension/gratuity claims TA/DA entitled categories and labour welfare laws, handling with the Court/CAT Cases. Arbitration cases etc, besides attending " Unstarred question " raised in Parliament. Therefore the functional responsibilities of clerical staff of MES stands on a different footing and cannot be logically equated with that of other Central Govt Deptt.

(C) FATE OF CLERICAL CADRE IN MES

1. An LDC in MES takes in reality 20 to 25 Years to get next promotion as UDC although, recruitment rules provides that LDCs with 8 years service in the grade are eligible for promotion to UDC. An UDC in MES takes 18 to 25 years to be promoted as OS II, although as per recruitment rule UDCs with 5 Years in grade are eligible for promotion, hope to

Contd...P/3...

retire as UDC at best, in comparison, LDC of railways and other Departments gets promotion as UDC within 5 to 6 years. An LDC of Railway on passing department examination become a Group 'B' Officer within 15 to 17 years.

2. The disregard shown to the clerical cadre in the MES shows that no career planning is assessed by the department for clerical cadre, whereas in other deptt. like P&T, Railway posts career prospects are planned and employees entered in their department with the same qualification and scale of pay are allowed to get atleast 3rd promotion in their career and an LDC entered in those departments acquires at least in the lowest gazetted status.

3. It is not out of place to mention that your HQ have not yet progressed the "Cadre Review" for clerical cadre while completed other cadres as recommended by the IVth Pay Commission thus total injustice has been done to clerical cadre in ignoring in 'Cadre Review'. Scale of pay awarded to the Clerical cadre by each pay commission and adopted by the Department shows that the clerical cadre personnel were brought down day-by-day when compare to their counterparts from 1947.

D. REQUIREMENTS TO BE FULL FILLED AT PAR WITH OTHERS

1. It is recently noticed that our employees, Supdt B/R, E/M and SA Cadre have been granted Time scale of pay based on the judgement delivered by the Central Administrative Tribunal, Bangalore and it is implemented vide Govt of India, Min. of Defence Lt No. PC/90237/4603/EIC (Legal)/1993/D(Works) dated 25 Apr '96 in MES. It is needless to say that the co-employees (i.e. Clerical Cadre etc) B/R, E/M and SA cadre should also be granted similar Time Scale of pay by showing impartial attitude between cadre to cadre. If this is not done it is a great injustice to our cadre, who are working alongwith B/R E/M and SA cadres personnel, in the socialistic pattern of our country. It is also mentioned that clerks are also dealing Technical matters with technical cadre personnel by virtue of experience and task assigned to them. Further following salient common points also brought to your kind notice please.
 - (a) We are also suffers remain without any promotional benefits for long and longer time. Some of our colleagues are also retired without any promotion in same initial appointment scale and cadre. Hence clerk also eligible for above benefit.
 - (b) We are also governed under same CSR Article hence our cadre also got ought to get the benefit of time scale promotion.

Contd....P/4....

- (c) Same CCS conduct rules and financial regulations are also applicable to our cadre which are applicable to particular cadre for whom you have implemented the orders of benefits.
- (d) Service conditions or retirement benefits are also similarly applicable to all cadre in MES, hence clerical cadre also entitled in time scale.
- (e) Recruitment rules and retirement benefits are also similarly applicable to our cadre please, hence benefit provided under letter quoted above also applicable to clerical cadre.
- (f) All other service conditions also similarly applicable to our cadre please, hence orders under your letter quoted above are to be implemented to clerical cadre.
- (g) Honourable CAT Bangalore Judgement is applicable to the applicants and non applicants of MES B/R and E/M Cadre should be implemented to the employees of MES who are sailing in the same boat and facing same grievances/problems.
- (h) B/R & E/M and our cadre is belongs to Basic category, Both cadres are serving for fulfilment of Aim/Motive of MES.
- (k) B/R & E/M and our cadre is covered under same group (i.e.) Group 'C' and governed under same Rules and Regulations, Hence right of eligibility for all benefits also equally applicable to clerical cadre please.

4. I would like to invite your kind attention to the orders contained in Ministry of Finance (Department of Expenditure) vide U.O No. 2(24)/E.III/92 dated 11 May '93 and Dy. No. F2266/JS(Pers)/93 dated 25 Jun '93, according to which in P&T Deptt existing pay scales of lower division clerk viz Rs.950-1500 has been replaced by a new pay scale i.e. Rs. 975-1660 with effect from 26 Jun '93. It is also further added in the aforesaid letter that LDCs on completion of 16 Years of service will be brought on the pay scale of Rs. 1400-2300 and on completion of 26 years of service in the pay scale of Rs. 1600-2660.

(E) JUSTIFICATION REQUESTED

5. We request your kind honour to implement/Extend the orders instructions contained in your letter No. 90237/4603/E1C (Legal)-D) dated 24-4-96 to me and my cadre (Non applicants) also impartially we also may please be granted the facilities from 01-01-86 immediately at par with cadre B/R and E/M Gde II & Is.

6. Further raising of pay scales of LDC in accordance with Min of Finance (Department of Expenditure) referred in above paras may also implemented immediately wef. 01 Jun '93.

Contd....P/5....

7. The above subject matter has not been referred to the Vth Pay commission either side nor from the staff side, moreover the subject matter and irrespective date of the orders/our demands does not cover under the jurisdiction of the Vth Pay Commission. So, far previous Pay Commissions are not recommended any benefits to a particular cadre with retrospective date of effect. To avoid the natural justice, you are requested not to instruct us to wait till present pay commission declaration and make any statement which will construct solid concrete grave yard to the justification and natural justice to and the granting benefits already order of implementation/Vogue please.

8. In case if you derive the above justification with one or other reasons or made delay in decision we have no other way to knock the door of Court of law to seek justification from other side.


9. We request you honour to kindly issue favourable decision immediately.


Thanking you,

Yours faithfully,

Station : Hyderabad

Date : 26-08-1996


(C.N. Chary)
Army No. 9560247
U.D.C.
C/O GE (P) (I) (R&D)
Chandrayanagutta, Hyd.
Pin 500.005.



Telephone : 844396

10010/ 1309 / SIB

GE (I) R & D
Chandrayangutta

Chief Engineer R & D
Picket,
Secunderabad - 500 003
19 Sep 96

BENEFITS OF HIGHER SCALES OF PAY AS ON 01-01-96
AND 01-01-91 OR LATER ON COMPLETION OF
5 YEARS AND 15 YEARS OF SERVICE AT PAR WITH
B/R & E/M GRADE I AND GRADE II

1. Reference your letter No. 1016/1101/SIB dt 07 Sep 96.
2. Applications received under the above quoted letter are returned herewith.
3. In this connection please refer to Min-C's to New Delhi letter No. 90270/27/SC/SID(3), dated 14 Jun 96 received under CESC, Pune letter No. 132400/2/Cadre Review/CP/C/100(3) dated 27 Jun 96 (Copy enclosed) as ready reference.

Encls : As above.

K. S. S. S.
(P. Gopalakrishnan)
Major
Adm Offr
for Chief Engineer

AT OA NO: 203/96. N. Raupach & Co.

Vi. Union of India

61-49-
95-

407

AS

Pay Commission Refuses to entertain case
of SEA's Pay Revision retrospectively

Copy of D.O. No. 50/4/94 dated 17.1.96 of 5th
Central Pay Commission Addressed to Secretary
Ministry of I & B.

Government of India,
Fifth Central Pay Commission,
Trikut-I Bheekaji Cama Place,
R.K. Puram, New Delhi.

Dated : Jan. 17, 1996

Dear Sh. Ghose

A number of references are being received by fifth
Central pay Commission, both from the Administrative
Ministries as well as various Judicial authorities, in which
the under line assumption seems to be that the Fifth
Central Pay Commission would also go into the past
anomalies with a view to their rectification with effect from
past dates.

It is clarified that the pay commission has no intention
of reopening past cases or in making any recommenda-
tion with respect to rectification of anomalies with retro-
spective effect. All our recommendation with regard to
the grant of pay scales, allowances, etc. will have
prospective effect from our recommended date only.

It is, therefore, requested that past cases may kindly
be settled by the concerned Administrative Ministries at
their level. The above restriction on the scope of the
commission's Jurisdiction may also be clarified to the
concerned Judicial Authorities, whenever such matters
come up for hearing

with kind regards.

Yours Sincerely,

Sd

(M.K. KAW)

TS

~~SECRET~~
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
NOTIFICATION

A 89 -50-

New Delhi, the 4th Oct 1991

S.R.O. 233. In exercise of the powers conferred by the proviso to article 309 of the constitution and in supersession of the Ministry of Defence (Class II posts) Recruitment Rules, 1969 and Military Engineer Services (Non-Industrial, Class III and Class IV Posts) Recruitment Rules, 1971 in so far as they relate to the posts of Upper Division Clerks and Lower Division Clerks except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the posts of Upper Division Clerk and Lower Division Clerk in the lower formations of the Army, namely :-

1. Short title and commencement:-(1) These rules may be called the Army (Group 'C' posts of Upper Division Clerks and Lower Division Clerks) Recruitment Rules, 1989.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Application:-These rules shall apply to the posts specified in column 1 of the Schedule annexed hereto.
3. Number of posts, classification and scale of pay.:-The number of the posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule aforesaid.
4. Method of recruitment, age limit and other qualifications etc.:- The method of recruitment, age limit qualification, and other matters relating to the said posts shall be as specified in columns 5 to 14 of the Schedule aforesaid.
5. Disqualification :- No person,
 - (a) who has entered into or contracted a marriage with a person having a spouse living, or
 - (b) who, having a spouse living, has entered into or contracted marriage with any person,shall be eligible for appointment to the said posts :
Provided that the Central Government, may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, except any person from the operation of this rule.
6. Power to relax :- Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing, relax any of provisions of these rules with respect to any class or category of persons.
7. Saving:- Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, the Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time.

SCHEDULE

F.No. 57472/LDC/UDC/Org 4(Civ)(a)
PUBLISHED

Sd/- xxx
S.S. SGI
Under Secretary

In case of recruitment by promotion or deputation or transfer grades from which promotion or deputation or transfer to be made. If a Departmental Promotion Committee exists what is its composition

Circumstances in which Union Public Service Commission is to be consulted in making recruitment

14

By Promotion

- (i) 12th & 13th promotion of Lower Division Clerks of the Cadre with 5 yrs regular service in the grade.
- (ii) 25th - through Limited Departmental Competitive Examination of such Lower Division Clerks of the Grade as have rendered 5 years regular service in the grade, provided they have not crossed the age of 45 years.
- Note :- In Command/Corps/Services Establishment where clerical establishment is not borne on Central list and whose strength does not exceed 100/50, all the posts will be filled by the method at (i) above

Group 'C' Departmental Promotion Committee consisting of :-

1. (i) Appointing authority/delegated appointing authority - Chairman
(ii) Senior Administrative/Establishment Officer - Member
(iii) A Commissioned Officer of the rank of Lt Col/Maj/Capt as the case may be from an unconnected department - Member
The Departmental Promotion Committee at Judge Advocate General Departments, Army Headquarters.
(i) Appointing authority/delegated appointing authority - Chairman
(ii) Colonel/Lt Col/ - Member
(iii) Major/CSO - Member
3. Departmental Promotion Committee at Defence Security Corps Dte, Army HQ :-
(i) Director Defence Security Corps - Chairman.
(ii) SPO, Defence Security Corps Records Cannanore - Member
(iii) GSO-2 Defence Security Corps Directorate - Member
(iii) GSO-2 Defence Security Corps Directorate (Inspectorate of Records)
4. The Departmental Promotion Committee at Org 8 (Inspectorate of Records)
ARCS :-
(i) Inspector of Records (Army HQ) - Chairman
(ii) Col Records or CRO of any Record Office - Member
(iii) SPO (CP) Org 4 (Civ) Army HQ - Member
In respect of Record Offices other than AOC Records, B&E Records Mil Farm Records).

SCHEDULE

Name of Post	Number of post	Classification	Scale of Pay	Whether selection or non-selection post	Age limit for direct recruitment	Whether benefit of added years of service admissible under rules 30 of Central Civil Services (Pension) Rules 1972.
1	2	3	4	5	6	7
2. Divisional Officer	7134(1911) #Subject to variation dependent on workload	General Central Services Group 'C' Non-Gazetted Ministerial	Rs. 1200-30-1560-EE-40-2040	75% by non selection 25% by selection Note :- In a Command/Corps/Services/Establishment whose clerical establishment is not borne on a central roster and whose strength of LECs does not exceed 100, 100% by non-select on	Not Applicable	Not Applicable
Educational and other qualification required for direct recruitment		Whether age and educational qualifications prescribed for direct recruitment will apply in the case of promotions		Period of Probation, if any	Method of recruitment whether by direct recruitment or by promotion/transfer/deputation and percentage of the vacancies to be filled by various methods.	
8		9		10	11	
Not Applicable		Not Applicable		No Probation Period	By Promotion	

SCHEDULE

Name of the Post	Matter of Posts	Classification	Scale of Pay	Whether selection post or non-selection post	Age limit for direct recruitment
1	2	3	4	5	6
Lower Division Clerks	*0545(1991) *Subject to variation dependent on workload	General Central Service, Group 'C' Non-Gazetted Ministerial	Rs.950-20-1150-EB-25-1500.	Non-Selection	Not exceeding 25 years (relaxable for Government servants upto 40 years of age in accordance with orders/instructions issued by the Central Govt.). Notes:-1. The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep). 2. In respect of post of recruitment to which is made through Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to sponsor names 3. The method of filling up of vacancies by transfer will not apply in the case of appointments made on compassionate grounds of dependents of Govt. servants who die in harness or retire on grounds of medical invalidity.

Whether benefit of added years of service under rule 39 of CCS (Pension) Rules, 1972 admissible	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Period of probation if any
7.	8	9	10.
No	<p>(i) Matriculation or equivalent examination of recognised University/Board.</p> <p>(ii) Speed of not less than 30 words per minute in typewriting in English or 25 words per minute in typewriting in Hindi, provided :</p> <p>(a) That a person not possessing the said qualification in typewriting may be appointed subject to the condition that he will not be eligible for drawing increment in the pay scale or for confirmation in the grade till he acquires the prescribed speed in typewriting either in English or in Hindi; and</p> <p>(b) that a physically handicapped person who is otherwise qualified to hold a clerical post but does not possess the said qualifications in typewriting, may be appointed subject to the condition that a civil Surgeon or equivalent certifies that the said handicapped person is not in a fit condition to be able to type.</p>	<p>Age-No</p> <p>Educational qualifications-Yes</p>	<p>Two years for direct recruits and promotees from Group 'D' post. No probation for transferees.</p>

Method of recruitment
whether by direct
recruitment or by
promotion or by
transfer or by deputation
and percentage of the
vacancies to be filled
by various methods

In case of recruitment by promotion
or deputation or transfer, the
grades from which promotion or
deputation or transfer to be made

11

12

90 percent by transfer,
failing which by direct
recruitment. 10 percent
by promotion of Group
'D' employees, failing
which by transfer,
failing both by direct
recruitment

Transfer :-

Persons working in similar, equivalent of higher grades in the
Civil posts of the Defence Services including main Secretariat
of Ministry of Defence and possessing educational qualifications
prescribed for direct recruits in column 8.

PROMOTION :-

Group 'D' employees of the Unit/Establishment who fulfill the
 requisite educational qualifications and have rendered five
 years regular service in the grade.

Notes :-

1. Record keeper of the Units/Establishment shall also be
eligible for promotion alongwith Group 'D' employees.
2. The maximum number of recruits by this method shall be 10%
of the vacancies in the cadre of LDC occurring in a year. Unfilled
vacancies shall not be carried over which, will be filled by
transfer, failing both by direct recruitment.

In a Departmental Promotion Committee exists, what is its composition

Circumstances which Union Public Service Commission is to be consulted in making recruitment.

13

14

Group 'C' Departmental Promotion Committee consisting :-

Not Applicable.

1. (i) Appointing Authority/Delegated appointing authority - Chairman
(ii) Senior Administrative/Establishment Officer - Member
(iii) A Commissioned Officer of the rank of Lt Col/ Major/Captain as the case may be from an unconnected Department - Member

2. The departmental Promotion Committee at Judge Advocate General Departmental Army Headquarters.

- (i) Appointing authority/delegated appointing authority - Chairman
(ii) Col/Lt Col - Member
(iii) Major/CSO - Member

3. The Departmental Promotion Committee at Defence Security Corps Dto Army Headquarters.

- (i) Director Defence Security Corps - Chairman
(ii) SRO, Defence Security Corps Records Cannanore - Member
(iii) SSO-2, Defence Security Corps Dto - Member

4. The Departmental Promotion Committee at Org 8 (Inspectorates of Records) Army Headquarters.

- (i) Director of Records (Army HQs) - Chairman
(ii) Col Records of Chief Record Officer of any Record Office - Member

- ***
- (iii) Joint Director(CP) Org 4 (Civ) Army HQs - Member
(in respect of Record Offices other than Army Ordnance Corps Records. Electrical & Mechanical

Engineers/Records Military form Records .

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
NOTIFICATION

New Delhi, the 27 Apr 1989.

S.R.O. 130. In exercise of the powers conferred by the proviso to article 309 of the Constitution, and in supersession of all Notifications on the subject, except as respects things done or omitted to be done before such supersessions the President hereby makes the following rules regulating the method of recruitment to the post of Group 'D' (Non-Industrial) in the lower formations of the Army, namely :-

1. Short title and commencement - (1) These rules may be called the Army Group 'D' (Non-Industrial) Recruitment Rules, 1989.

(2) They shall come into force from the date of their publication in the official Gazette.

2. Number of post, classification and the scale of pay - The number of the posts, their classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the schedule annexed to these rules.

3. Method of recruitment, age limit and qualification, etc. - The method of recruitment, age limit, qualification and other matters relating to the said posts shall be as specified in columns 5 to 14 of the Schedule aforesaid.

4. Disqualification - No person,

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the said posts :

Provided that Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax - Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order and for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving - Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Sd/- xxx
R.R. Koshal
Under Secretary

F.No. 57472/OrG.4(Civ)(a)
PUBLISH

SCHEDULE

Post.	Classification.	Scale of Pay.	Whether selection post or non-selection post.	Age limit for direct recruits.	Whether benefit of added years of service admissible under rule 30 of the Central Civil Services (Pension) Rules, 1972.
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1	2	3	4	5	6
Recn/ Messengers	2950* (1989)	General Central Services Group 'D' Non-Industrial Non-Ministerial.	Rs. 750-12- 870-El- 14-940.	Non- Selection.	18 to 25 years (relaxable upto 35 years for Govt servants as per orders/instructions issued by the Central Government).

Educational and other qualification required for direct recruits	Whether age and educational qualification prescribed for direct recruits will apply in the case of promotees.	Period of probation if any.	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.
--	---	-----------------------------	--

8	9	10	11
Essential Middle School pass or its equivalent.	Not Applicable.	2 years for direct recruits, no probation for transferees.	1. 75% by transfer under the surpluses and deficiencies scheme falling which by direct recruitment 2. 25% by transfer or re-classification of serving safaiwalas, chowkidars, Bhash, Gardners, Mazdoors with 5 years of regular service in the grade falling which by direct recruitment.
Desirable Training in basic and Refresher course in Home Grounds and Civil Defence			

58

In case of recruitment by promotion/
deputation/transfer, grades from
which promotion/deputation/transfer
to be made

If a Departmental Promotion Committee
exists, what is its composition.

Circumstances in
which Union
Public Service
Commission is
to be consulted
in making
recruitment.

12

13

14

Transfer - (1) 75% by transfer of
persons serving in similar
equivalent or higher grades in
the lower formations of Defence
Services.

(2) 25% by transfer or
re-classification of serving
Sardars, Chowkias,
Prison Wardens, Mazdoors
having 5 years regular service
in the grade.

Group 'D' Departmental Promotion
Committee consisting of :-

1. Appointing authority/delegated
appointing authority - Chairman
2. Senior Administrative/Establishment
Officer - Member
3. An officer of the rank of Lt Col/Maj/Cap
or equivalent rank from an un-connected
Department - Member

Not applicable.

68-59

G.A. No. 3694 and 3781/96

The above Original Applications are filed by Mr. V.V. Sarma, Counsel for the applicants, seeking direction to the respondents to accord the promotional benefits of the time bound higher scales to the applicants from LDCs to UDC grade, UDC to office superintendent grade II & O.S. grade II to OS grade I.

On scrutiny the office has raised the following objections:-

- i) As the applicants belong to different categories like LDCs, UDCs and office superintendents seeking time bound promotion to their respective higher categories, how the single original application is maintainable for the applicants ~~are~~ belonging to different categories?
- ii) The applicants belong to different units like Naval unit of Visakhapatnam, DRDO at Hyderabad & other Army units at Secunderabad. How the single original application is maintainable for the applicants belonging to different units (inspite of the fact that all belong to MBS, according to the Advocate)?

The counsel for the applicants replied as follows:-

As a common impugned order is issued all the applicants belonging to different categories are. (incomplete)
Put up for orders before the Bench. As all the applicants are MBS employees, common CA is filed.

Submitted for orders as to the maintainability of single original applications.

DEPUTY REGISTRAR

Cs/
29/11