

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1550 of 1997

DATE OF ORDER: 23th APRIL, 1999

BETWEEN:

- 1. V.SAMBASIVA RAO,
- 2. S.KRISHNA MOHAN RAO,
- 3. SMS FRANCIS,
- 4. A.G.PHILLIPS,
- 5. K.R.SREECHANDER,
- 6. SHAIK JAMEEL AHMED.

.. APPLICANTS

AND

- 1. Union of India rep. by
the Secretary to the Govt. of India,
Ministry of Defence,
Sena Bhavan, New Delhi-11,
- 2. The Scientific Advisor to Raksha Mantri,
Ministry of Defence,
New Delhi-11,
- 3. The Director,
Defence Metallurgical Research Laboratory,
Kanchanbagh,
Hyderabad 500058.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.Y.APPALA RAJU

COUNSEL FOR THE RESPONDENTS: Mr.V.VINOD KUMAR, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Y.Appala Raju, learned counsel for the applicants. None for the respondents.

2. There are 6 applicants in this OA. They are presently working as Technical Officer-A in the Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad.

3. Group-B and 'C' Scientific and Technical posts of Defence Research and Development Organisation were restructured and the Defence Research and Development Organisation Technical Cadre (DRTC for short) was constituted on ¹⁶26.8.95. In the process, 29 Group 'B' and 'C' Scientific and Technical Grade posts were restructured into 3 categories with four levels in each category. To protect the interests of the individuals who were drawing a pay scale higher than the one in which they were initially placed in DRTC, all the incumbents were given an option at the time of initial constitution to continue to draw their old scale even after induction into DRTC under FR 23 (Rule 6(8) of SRO 177/95). The said SRO 177/95 is enclosed at Annexure A-2 at page 18 to the OA. The above SRO came into force from 16.8.95.

4. The DRTC rules had come into effect from ¹⁶26.8.95 replacing the recruitment rules for the then existing 29 categories of posts. Out of these 29 categories, only the post of Junior Scientific Officer (JSO for short) was a Group 'B' Gazetted post and all the other posts were in Group-C. The post of JSO was the promotion ^{al} post for the

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three streams viz., Technical, Scientific and Draughtsman, the old structure is given in Annexure I. The post of JSO (Rs.2000-3500) was filled by promotion from the posts of Foremen (Rs.2375-3500), Senior Scientific Assistants (Rs.1640-2900) and Chief Draughtsman (Rs.2000-3200) in a prescribed ratio. On the recommendations of the Board of Arbitration, a fixed number of Chief Draughtsmen and Senior Scientific Assistants were also given the higher arbitration pay scale of Rs.2375-3500 on the basis of seniority. After the implementation of the Board of Arbitration Award, the incumbents in the grades of Senior Scientific Assistants and Chief Draughtsmen were in two scales viz. the higher arbitration scale (Rs.2375-3500) and the original scale for Senior Scientific Assistants (Rs.1640-2900) and for Chief Draughtsman (Rs.2000-3200).

5. In order to improve the promotional chances, restructuring of the entire technical, ~~***~~ scientific and Draughtsman grades were ordered resulting in unified grade structure by issuing DRTC rules.

6. The Technical Officer Gr.A was formed by DRTC by combining the cadre of Foreman, Chief Draughtsman, Senior Scientific Assistants in the scale of pay of Rs.2375-3500. The post of JSO was also brought under Technical Officer 'A'. Earlier, for promotion to JSO, the feeder category posts were Foremen, Chief Draughtsmen and Senior Scientific Assistants in the pay scale of Rs.2375-3500. The JSOs who were also brought under Technical Officer-A were placed enblock senior to the other category of staff of Foremen, Chief Draughtsmen, Senior Scientific Assistants who were

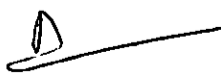
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also designated as Technical Officer-A. In view of the judgement of the Principal Bench of the Central Administrative Tribunal, the pay scale of the erstwhile JSOs was raised from Rs.2000-3500 to Rs.2375-3750 retrospectively with effect from 1.1.86 or from the date of promotion to the post of JSO whichever is later vide Defence Ministry's letter NO. 96574/JSO/PC/RD/Pers-3/136/S/D(R&D), dated 11.6.96. In the said letter, it was clearly specified that the above revision of pay scale of the erstwhile JSOs would not affect their placement already made under SRO 177/95 in DRTC. Thus the post of Technical Officer-A was in two grades, namely, Rs.2375-3750 for the erstwhile JSOs and Rs.2375-3500 for the Foreman, Chief Draughtsman and Senior Scientific Assistants who were redesignated as Technical Officer-A.

7. The Foremen, Chief Draughtsmen and Senior Scientific Assistants who were redesignated as Technical Officer-A and whose pay was fixed in the pay scale of Rs.2375-3500 pray for granting the pay scale of Rs.2375-3750 as was given to the erstwhile JSOs who were also redesignated as Technical Officer-A.

8. Their contention is that they are doing same work as the erstwhile JSOs who are now redesignated as Technical Officer-A and hence they cannot be differentiated in the pay scale from that of the erstwhile JSOs who are in the pay scale of Rs.2375-3750. They further submit that as they are doing ^{the} same work, the principle of equal pay for equal work applies and hence they should also be given the same scale of pay of Rs.2375-3750 instead of Rs.2375-3500.



9. All the applicants herein filed representations for the above relief to R-2. Their representations were rejected by the impugned order No.DMRL/E/JSO/PS, dated 19.2.97 (Annexure I at page 17 to the OA).

10. This OA is filed to set-aside the impugned order No.DMRL/E/JSO/PS, dated 19.2.97 (Annexure I at page 17 to the OA) by holding it as arbitrary, unjust, discriminative and unsustainable in law and for consequential direction to the respondents to extend the benefit of higher pay scale of Rs.2375-3750 to the applicants herein on par with the erstwhile JSOs without discrimination from the date such higher pay scale was granted to the erstwhile JSOs with all consequential benefits.

11. The applicants cannot ask for grant of the scale of pay of Rs.2375-3750 from the date the JSOs were brought under the category of Technical Officer Gr.'A' granted that scale who were also/ ~~**~~ as combination of the 29 Group-B and 'C' posts came into being only with effect from 16.8.95. Earlier, the posts of Senior Scientific Assistants, Chief Draughtsmen and Foremen were in Group-C post and JSOs were in Group-B post. Hence the question of comparing their duty list who were in the lower grade, to that of their superiors ~~will~~ ^{does} not arise. They can request such higher pay scale of Rs.2375-3750 as was given to the JSOs who were redesignated as Technical Officer-A on the basis of the DRTC rules, only from a date from which the DRTC Rules came into existence i.e, 16.8.95. Thus, the applicants if at all to be given the higher scale of pay of Rs.2375-3750, they can get it only from 16.8.95 and not

Or

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earlier to that date as their work cannot be compared with that of the senior officers who were in the Group-B post.

12. The learned counsel for the applicants submits that the applicants are entitled for the higher pay scale of Rs.2375-3750 with effect from the date when the DRTC rules came into force i.e, 16.8.95. If so, whether the prayer in this OA can be allowed especially when the Vth Pay Commission scales of pay came into being with effect from 1.1.96, is the ^{main} point for consideration.

13. The replaced scale of pay of Technical Officer-A on the basis of the Vth Pay Commission recommendations was fixed as Rs.7000-11500 with effect from 1.1.96 for the earlier scale of pay of Rs.2375-3750. The Vth Pay Commission scale of pay is also applicable to those who were in the scale of pay of Rs.2375-3500. Thus the earlier scales of pay of Rs.2375-3500 and Rs.2375-3750 were combined and a replacement scale of pay of Rs.7000-11500 was given to the Technical Officer-A. Thus from 1.1.96 onwards there is no difference in the pay scale between the erstwhile JSOs who were redesignated as Technical Officer-A and Chief Draughtsmen, Senior Scientific Assistants and Foremen redesignated as Technical Officer-A on the basis of the DRTC rules.

14. In view of the above position, the only point for consideration is whether the applicants are entitled for the scale of pay of Rs.2375-3750 for a few months i.e, from 16.8.95, when the DRTC Rules came into force, to 31.12.95 after which date the Vth Pay Commission scales of pay came

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into force, w.e.f. 1.1.96.

15. The DRTC Rules came into force from 16.8.95. Hence the applicants cannot aspire to equalise their pay scale with that of the erstwhile JSOs redesignated as Technical Officer-A as it requires some consideration before granting the scale as prayed for in this OA. Such consideration has to be done after examining the work load, nature of duties etc. But before a decision can be taken, the Vth Pay Commission scales of pay had come into force. Because of the introduction of the Vth Pay Commission scales of pay which unified the earlier scale of pay of Rs.2375-3500 and Rs.2375-3750 into a single scale of pay of Rs.7000-11500, the respondents had no opportunity to examine this issue in detail and pass a suitable order. In the O.As filed on the file of the Bangalore Bench of this Tribunal which order is enclosed as Annexure IV at page 46 to the OA, the respondents reported to have submitted that the Government had taken appropriate steps and it is proposed that the pay scale of the post of Technical Officer-A may also be fixed at Rs.2375-3750. But even without any initiative taken by the Government, the post of Technical Officer-A has been brought under one scale of pay because of the Vth Pay Commission's recommendations. Hence it should be stated that the respondents have complied with the submissions they made before the Bangalore Bench of this Tribunal in the said OAs.

16. As stated earlier, if the respondents have taken some time to decide the issue, it cannot be stated to be violative of any rule as the issue involves consideration

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at various levels. But by the time they could consider the case, the Vth Pay Commission scales had come into force. As this OA was filed before the implementation of the Vth Pay Commission scales of pay, the request of the applicants at that juncture may be valid. But now with the introduction of the Vth Pay Commission scales of pay, the question of considering the prayer in this OA may not be necessary. As stated earlier, four months delay is no delay and on that count the applicants cannot get any relief from the date of introduction of the DRTC rules i.e, from 16.8.95. They got it immediately four months after the introduction of the DRTC Rules and that meets the ends of justice.

17. The applicants submit that they will get some benefit even if the scale of pay as prayed for by them in this OA is granted with effect from 16.8.95. A close scrutiny of this request reveals that only those who are at the maximum of the scale of pay of Rs.2375-3500 may get some benefit and that benefit also is very much limited and that amount may ^{be very meagre.} ~~not exceed Rs.500 to Rs.600/-~~. For such a minor benefit, the amount of action ^{to be} taken by the respondents in following the procedure for granting them the scale as prayed for by them, is not warranted and it will not be worthwhile exercise to be initiated by the Government. Further, no material is available before us to come to the conclusion that some of the applicants herein were stagnated at the maximum of pay scale of Rs.3500/-. In the absence of any such material, no further action is considered necessary.

18. The learned counsel for the applicants submits that those who retired may get some benefit. That

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possibility will arise only if some of the applicants retire between 16.8.95 and 31.12.95 and that benefit also as stated earlier, will ^{be} very meagre which may be of the order of Rs.400 to Rs.500/-. By the recent circular, the Government of India changed the rules for fixation of pension and those who had retired earlier to 1.1.1996, their pension has to be fixed at 50% of the minimum of the replacement scale. Thus, even if the applicants had retired earlier to 1.1.96, they will not be put ^{to} any disadvantage as the pension, as stated above, will come into force from 1.1.96.

19. Considering the above, passing of any order in this OA on merits will be a futile exercise. The applicants had not ^{been} put to any disadvantage because of the non fixation of their pay scale in the scale of pay of ^{from 16.8.1995.} Rs.2375-3500/. The introduction of the Vth Pay Commission scales had resulted in automatic grant of the prayer in this OA and hence it has to be held that the OA has become infructuous due to the introduction of the Vth Pay Commission scales of pay and acceptance of the pay and pension on the basis of the Vth Pay Commission recommendations.

20. In view of what is stated above, we find the OA has become infructuous and hence has to be dismissed on that count. Accordingly. the OA is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JNL.)
29.4.99


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED : 29th APRIL, 1999

Copy to:

1. HDHNJ
2. HHRP M(A)
3. HBSJP M(J)
4. D.R. (A)
5. SPARE

IST AND IIND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD:
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR:
MEMBER (J)

DATED: 29-4-99

~~ORDER/JUDGEMENT~~

~~MA. / RA. / CP. NO.~~

IN

C.A. NO. 1550/97

~~ADMITTED AND IN ERIM DIRECTIONS
ISSUED.~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

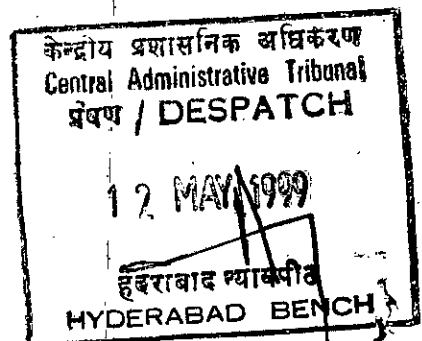
~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

SRR



Form No.8

(See Rule 29)

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH AT HYDERABAD

1st Floor, HACA Bhavan, Opp: Public Garden, Hyderabad-500 004. A.P.

ORIGINAL APPLICATION NO. 1550. OF 1997.

Applicant (s)

V/S,

Respondent (s)

V. Sambasiva Rao.

Represented by

Advocate Shri

Y. Appala Raju.

The Secretary, Min. of Defence, New-Delhi. & 2 others.

Represented by

Advocate Shri

V. Vinod Kumar. Adl. CGSC.

To

1. The Secretary, Govt. of India, Ministry of Defence, Sena Bhavan, New-Delhi.
2. The Scientific Advisor to Raksha Manthri, Ministry of Defence, Govt. of India, Sena Bhavan, New-Delhi.
3. The Director, Defence Metallurgical Laboratory, Kanchar Bagh, Hyderabad.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunals Act, 1985, as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has directed that you should be given an opportunity to show cause why the application should not be admitted.

Notice is hereby given to you to appear in this Bench of the Tribunal in person or through a Legal Practitioner Presenting Officer in this matter at 10-30 A.M. of the Nineteenth, day of December, 1997. to show cause, why the application should not be admitted. If you fail to appear, the application will be heard and decided in your absence.

Given under my hand and the seal of this Tribunal, this the Nineteenth, day of November, 1997.

// BY ORDER OF THE TRIBUNAL //

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

प्रेषण / DESPATCH

26 NOV 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH



Av
24/11/97

Date : 20-11-97.

FOR REGISTRAR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.500004.

M.A.,NO. 1054 OF 1997

O.A.^{Sr},NO. IN 3591 OF 1997

BETWEEN:

- 1.V.SAMBA SIVA RAO , son of Bhaskera Rao,
Aged 47 years, R/o Hyderabad,
Occupation : Technical Officer 'A'.,
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058,A.P.,
- 2.S.KRISHNA MOHAN RAO, son of S.Jamnaji Rao,
Aged 36 years, R/O Hyderabad,
Occupation: Technical Officer 'A'
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058.A.P.
- 3.S.M.S.FRANCIS son of Singa Raju,
aged 56 years, R/O Hyderabad,
Occupation: Technical Officer 'A',Defence Metallurgical
Laboratory,
Kanchanbagh, Hyderabad-500 058.A.P.
- 4.A.G.PHILLIPS, son of Late Andrew Phillips,
aged 47 years, R/O Hyderabad,
Occupation: Technical Officer 'A'.,
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058. A.P.
- 5.K.R.SREECHENDER son of late K.Ramdas,
aged 60 years, R/O Hyderabad,
Occupation: Technical Officer 'B',
Defence Metallurgical Laboratories,
Kanchanbagh, Hyderabad-500 058.A.P and
- 6.SHAIK JAMEEL AHMED son of Shaik Ahmed Hussain,
aged 46 years, R/O Hyderabad,
Occupation:Technical Officer 'A',
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058.Andhra Pradesh.

... APPLICANTS.

AND

- 1.UNION OF INDIA:Rep.by:
Secretary to the Government of India,
Ministry of Defence,Sena Bhavan, New Delhi.,
- 2.The Scientific Advisor to Raksha Manthri,
Ministry of Defence, Govt.of India,
Sena Bhavan, New Delhi.
- 3.The Director,
Defence Metallurgical Research Laboratory,
Kanchanbagh, Hyderabad-500 058. A.P.

NO. of respondents: nil
Attorney 2 Pr

... RESPONDENTS.

: 2 :

APPLICATION FILED UNDER RULE 4 (5) (a) OF CENTRAL
ADMINISTRATIVE TRIBUNAL (PROCEDURE) RULES, 1987

Seeking Permission to file Single
Original Application.

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We, the Applicants herein submit that we are all Applicants herein and are working as Technical Officers 'A'/'B' in the office of the 3 rd. respondent. We are all concerned in the O.A. having a common cause of action and are interested in the relief. All the respondents herein are common to all of us. The impugned order giving rise to the present cause of action Viz., Memo No. DMRL/E/JSO/PS. dated 19-02-1997 is common to all of us. The impugned order issued by the 3 rd. respondent herein is a stereo-typed one in the details of each applicant. The relief prayed for is also common to all the applicants i.e., setting aside of the impugned orders issued by the respondents.

2. In view of our submissions made in the above paras, we pray that this Honourable Tribunal may be pleased to permit us to join together and file a single Original Application and pass such other order or orders as deemed fit and proper in the circumstances of the case.

: V E R I F I C A T I O N :

WE, the Applicants herein working as Technical Officers 'A'/'B' in the Office of the Director, Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad, Andhra Pradesh do hereby verify the contents of the above Mis~~w~~. Application from paras 1 to 2 and declare the contents as true to the best of our knowledge and belief and also on legal advice.

no. of counters: nil
Author: [Signature]

Contd. p. 3...

We, the applicants herein further declare that we have not suppressed any material facts or information pertaining to the case.

Sl. No.	Name and designation, father's name and age of the applicant.	Signature.
---------	---	------------

1. V. SAMBA SIVA RAO
 S/O BHASKARA RAO
 Aged 47 years, T.O. A
 DMRL. Hyd

V. Sambasiv Rao
 (V. SAMBASIVA RAO.)

2. S. KRISHNA MOHAN RAO
 S/O S. JAMNAJI RAO
 Aged 26 years T.O. A
 DMRL. Hyd

S. Krishna Mohan Rao
 (S. KRISHNA MOHAN RAO)

3. SMS FRANCIS
 S/O SINGA RAJU
 Aged 56 years T.O. A
 DMRL. Hyd

S. M. S. Francis
 (S.M.S. FRANCIS.)

4. A. G. Phillips
 S/O Late Andrew Phillips
 Aged 47 years T.O. A
 DMRL. Hyd

A. G. Phillips
 (A.G. PHILLIPS.)

5. K.R. Sreedender.

S/O Late K. Ramdas
 60 yrs. T.O. B
 DMRL. Hyd

K.R. Sreedender
 (K.R. SREE CHANDER)

6. SHAIK JAMEEL AHMED T.O. A

S/O Shaik Ahmed Hussain
 46 years DMRL. Hyd

Shaik Jameel Ahmed
 (SHAIK JAMEEL AHMED.)

Solemnly affirmed on oath
 and signed in my presence
 at Hyderabad on 03-11-1997.

BEFORE ME.

[Signature]
 ADVOCATE.

[Signature]
 Counsel for Applicants.

Single O.A. Petn
IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: HYDERABAD BENCH AT
HYDERABAD.500 004.

M.A., No. _____ OF 1997
IN

O.A., No. _____ OF 1997.

BETWEEN:

V.SAMBASIVA RAO, son of
Bhasker Rao, aged 47 years
and 5 others.

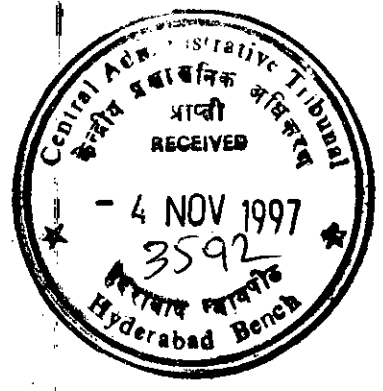
... APPLICANTS.

AND

Union of India:Rep.by:
Secretary to the Govt.of India,
Ministry of Defence, Sena Bhavan,
New Delhi,
and 2 others.

... RESPONDENTS.

Application filed under Rule 4(5)(a)
of C.A.T.(Procedure)Rules, 1987.



Filed on 03 - 11 -1997.

Filed by : Y.APPALA RAJU,
Counsel for Applicants.

Y. APPALA RAJU, B.A., LL.B.
ADVOCATE,
Flat No: 262, Indraprashta Township,
Vinayanagar, Saidabad,
HYDERABAD - 500 059. A. P.

Y. Appala Raju
11/97

MA 1054/97 in O.A. 359/97

मूल/ORIGINAL

18.11.97

Heard Sri Y. Appal Raj
for the applicants and Sri
V. Vinod Kumar for the
respondents.

रक्षा/DEFENCE

बेंच केस/BENCH CASE


CENTRAL ADMINISTRATIVE TRIBUNAL
-HYDERABAD BENCH : HYDERABAD.


2. The MA is not opposed.
under the circumstances
referred to in MA, MA is
ordered as prayed for.
Register the OA, if it is
otherwise in order and
list it for admission on
19.11.97.

M.A. No. 1054 OF 1997

IN

O.A. No. 359 OF 1997


HBS SP
M(S)


HPRU
M(A)

SINGLE O.A. PETITION

Mr. Y. Appala Raju
COUNSEL FOR THE APPLICANT.

AND

Mr. V. Vinod Kumar
Sr. ADDL. STANDING COUNSEL FOR
C.G. Mys.