

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH: JAIPUR.

O.A.No. 26/2003

Date of Decision: 15.07.2004.

CORAM

The Hon'ble Mr. A. K. Agrawal, Administrative Member,

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

Jagish Chandra Saini, S/o Ram Chandra Saini, R/o Mohalla  
Kurduwala Kund, Opp. to Railway Station, Alwar.

2. Khemchand, S/o Ram Verma, 9, Jaipaltan, Alwar.

Mahendra Singh, S/o Sanwat Ram, r/o 523 MES Colony, Itarana  
Alwar.

4. Ramesh Chand, S/o Banshidhar, r/o LIC Office, Mateore  
Road, Khairthal ( Alwar )

: Applicants.

rep. by Mr. Hemant Gupta: Counsel for the applicants.

VERSUS.

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

2. The Engineer in Chief, Army Headquarters, DHQ PO New  
Delhi.

3. The Chief Engineer Works, Southern Command, Pune-1

4. The Commander Works Engineer, MES, Jaipur-6

5. The Garrison Engineer, MES, Itarana Palace, Alwar:

: Respondents.

rep. by S.M. Khan : Counsel for the respondents.

ORDER

Mr. J.K. Kaushik, Judicial Member.

Shri Jagdish Chander Saini and three others have filed this joint O.A , inter alia praying for a direction to the respondents to pay the applicants the skilled grade pay of Rs.950-1500 from the date of their initial appointment along with interest at the rate of 24% per annum amongst other reliefs.

2. We have heard the learned counsel for the parties at a considerable length and have carefully perused the records of this case.

3. The material facts relating to the filing of this O.A are that the applicants were initially appointed on various posts in the skilled category with effect from 15.03.98, 12.07.94, 19.09.87, and 19.09.87 respectively. The applicants No. 1 & 4 were appointed as carpenter, whereas applicant No. 2 was appointed a Pump House Operator and the applicant No. 3 was appointed as Lineman in the respondents department. All the applicants were given the pay scale of Rs.800-1150/-. All of them except applicant No. 2 were given further pay fixation in the pay scale of Rs.950-1500 with effect from 10.07.90. The applicants took up the matter to remove the pay anomaly in the pay scale but the same has been rejected and it has been indicated that for two years the applicants would be given the same scale of pay Rs.800-1150/- and after completion of probation they were allowed the pay scale of Rs.950-1500. A Notice of Demand for justice was got served through their counsel. But there was no response. The O.A is filed on multiple grounds mentioned in para 5 and its sub paras.

4. The respondents have contested the case and have filed a detailed reply. A preliminary objection regarding the maintainability of the O.A on the ground that the O.A is beyond the period of limitation. It has been averred that specific

appointments have been given to the applicants wherein they were appointed in the pay scale of Rs.800-1150/-. The applicants No. 1,3 and 4 were allowed the next higher scale of pay of Rs.950-1500/- on completion of their probation period of two years and their representations were considered and they were accordingly informed. The grounds raised in the O.A have been generally denied. This OA deserved to be dismissed.

5. The learned counsel for the applicant has reiterated the pleadings of the applicant and has cited a number of judgements passed by this Bench of the Tribunal and a copy of the same have been placed on record. We would refer one of them, which was passed on 21.12.98 in O.A. No. 206/95 Mahendra Kumar and others vs. union of India and others. wherein it has been specifically pointed out that the recruitment rules were amended and published on 10.01.91, whereby the appointments were to be first made in the scale of pay of Rs.800-1150/- meant for semi skilled worker. The learned counsel for the applicant has further pointed out that there was no grade of Rs.800-1150/- for the posts on which the applicants have been appointed prior to the date of amended recruitment rules and it was only the grade i.e. Rs.950-1500 to which the applicants ought to have been appointed. Thus the very grade which was provided to the applicants was totally wrong and contravention to Recruitment Rules.

6. He has next contended that the applicants did not know the actual position and they could come to know this only after number of judgements were pronounced on the subject by various Benches of this Tribunal including from this very Bench. The moment they came to know they have approached the competent authority but with no fruitful result. He has further submitted that the case of the applicants is wholly covered by the judgement in Mahendra Kumar and others [supra]. As regards the delay the learned counsel for the

applicant has submitted that this is a matter of pay fixation which gives continuous cause of action and therefore the law of limitation would not be attracted in this case.

7. Per contra, the learned counsel for the respondents vehemently opposed the contention raised on behalf of the applicants. He has at the very outset submitted that the applicant No. 2 i.e. Shri Khem Chand came to be appointed on 12.07.94, and at least in respect of the said applicant no fault can be found with the action of the respondents. As regards the judgements which have been placed on record by the learned counsel for the applicants, it has been stated that it is for this Bench of the Tribunal to consider the matter.

8. We have considered the rival submissions. We straightaway hold that the applicant No. 2 cannot get any relief since his appointment was made in the year 1994, i.e. much latter than the amended recruitment rules came into force. We have waded through the judgement in Mahendra Kumar's case ( supra ) and find that the controversy is squarely covered by the same. The judgement is otherwise very exhaustive and the respondents did not point out any distinguishing feature except to state that the O.A is hit by law of limitation. The limitation aspect we would deal a little later. We are placing a copy of the judgement in Mahendra Kumar's case ( supra ) on record and therefore we refrain from debating afresh.

9. At this juncture, we only assert that independent of the aforesaid authority, if we were to examine the case separately, we would have reached the same conclusion. In this view of the matter, we have absolutely no hesitation to decide the instant case on the similar lines.

10. As regards the preliminary objection relating to the delay in filing this O.A , we are in agreement and concur to the contentions submitted on the point of limitation by the learned counsel for the applicant. In the matter of pay fixation, the law is well settled i.e. in the matters of pay fixation it is a recurring cause of action and their Lordships of the Supreme Court in the case of Mr. Gupta vs Union of India and others [AIR 1986 SC 669 ], have held that the matter relating to pay fixation gives rise to recurring cause of action and the law of limitation does not apply in such cases. However, the relief regarding the payment of arrears is to be regulated and to be restricted one year prior to the date of filing of the case. But in the present matter, it relates to payment of wages and Art. 102 of Limitation Act provides for a period of three years i.e. the actual relief shall have to be restricted accordingly.

11. The upshot of the above discussion is that the O.A in respect of applicants 1, 3 & 4 i.e. except Applicant No. 2( Shri Khem Chand ) deserves to be allowed and the same stands allowed accordingly. The respondents are directed to grant Rs.950-1500/- to the applicant Nos. 1,3 & 4 from the date of initial appointment on notional basis. They are also entitled to all consequential benefits but the actual arrears shall be payable only for <sup>a</sup> period of three years prior to the date of filing of this O.A. This order shall be complied with within a period of three months from the date of communication of this order. The O.A is dismissed in respect of Applicant No. 2. Costs made easy.

  
(J.K. Kaushik)

Judicial Member.

(S.K. Agrawal)

Administrative Member.