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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No. 83 of 1998

and

O.A.No.102 of 1998

DATE OF DECISION. 17.8.1998

1. Shri J. Rai (O.A.No.83/98)
- !! 2. Shri R.P. Ram & 5 others (O.A.No.102/98) (PETITIONER(S))

Mr A. Dasgupta, Mr M. Chanda and
Ms N.D. Goswami

ADVOCATE FOR THE
PETITIONER(S)

VERSUS.

Union of India and others

RESPONDENT(S)

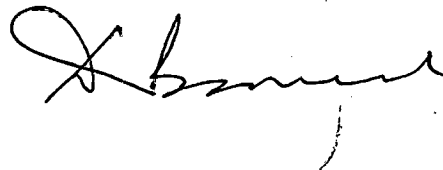
Mr S. Ali, Sr. C.G.S.C.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.83 of 1998

And

Original Application No.102 of 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. O.A.No.83/1998

Shri Jaleswar Rai

2. O.A.No.102/1998

1. Shri Ramesh Prasad Ram

2. Shri Salamat Miyan

3. Shri Punaram Sarma

4. Shri Jadunandan Rai

5. Shri Deb Chandra Jha

6. Shri Raj Kumar Ram

.....Applicants

All the applicants are working as Motor Pump Attendant (now redesignated as Fitter General Mechanic) under the Garrison Engineer, Umroi Cantonment, MES, Shillong.

By Advocates Mr A. Dasgupta, Mr M. Chanda and
Ms N.D. Goswami.

-versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi.

2. The Headquarter Chief Engineer, Eastern Command, Fort Williams, Calcutta.

3. The Controller of Defence Accounts, Basistha, Guwahati.

4. The Army Headquarter Engineer-in-Chief's Branch, Kashmir House, DHQ, New Delhi.

5. The Garrison Engineer (P), Umroi, Umroi Cantonment, Barapani, Shillong.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.



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O R D E R

BARUAH.J. (V.C.)

Both the applications involve common questions of law and facts. Therefore, we propose to dispose of both the applications by a common order.

2. The applicants have filed the applications seeking direction from this Tribunal to the respondents to treat them as regular Motor Pump Attendant (MPA for short). Facts for the purpose of disposal of the cases are:

The applicants were initially appointed Chowkidar/Mazdoor under the Commandar Works Engineer, MES, Shillong. Thereafter, they were promoted to the post of MPA by various orders between 1982 and 1983. In the year 1987 the applicants were reverted from the cadre of MPA to the lower cadre. Meanwhile, similar MPAs were also reverted to the lower cadre and they approached this Tribunal by filing original applications No.144(G) of 1989 and No.196(G) of 1989. The said applications were disposed of by this Tribunal by order dated 29.6.1990. In the said order this Tribunal held that the clarification or direction given by the Headquarter, Eastern Command in its letter dated 10.11.1986 cannot be sustained.

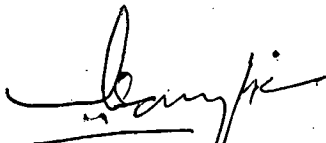
3. We have heard Mr M. Chanda, learned counsel for the applicants and Mr S. Ali, learned Sr. C.G.S.C. Mr Chanda submits that the decision of the Tribunal in the above two cases squarely covers the point of controversy in the present cases. We have perused the order. We quote the relevant portion of the order:

".....The clarification or direction given by the Headquarter, Eastern Command in its letter dated 10.11.1986 can not be sustained. Even if there were compelling circumstances why the order should have retrospective effect, the affected person should at least have been given an opportunity of explaining his case. Since this opportunity was not given the applicants were denied natural justice."

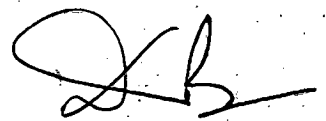
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4. In the present case also no opportunity was given. In our opinion the said order squarely covers the controversy of the present case. It may be mentioned here that the finding of the Tribunal in the aforesaid judgment was sought to be reviewed in R.A.No.12 of 1990. The review application was rejected, confirming the earlier decision. We, therefore, following the said decision, direct the respondents to give all the benefits to the applicants of the scale of pay of Motor Pump Attendant of Rs.260-400 (now revised to Rs.950-1500). The money recovered, if any, from the applicants shall be refunded to them as early as possible, at any rate within a period of three months from the date of receipt of this order.

4. The applications are accordingly disposed. However, in the facts and circumstances of the cases we make no order as to costs.



(G. L. SANGLYINE)
MEMBER (A)



(D. N. BARUAH)
VICE-CHAIRMAN