

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date- 12/11/2001

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SECTION OFFICER (JUDI.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

50/2001 OF 199

Applicant(s)

Shri M. Singh

Respondent(s)

I.P.O. 112 ORS.

Advocate for Applicant(s)

Mr. M. Chanda,
Ms. G.N. Chakraborty

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
Mention case. Mr. M. Chanda Advo has been filed on application and copies with Rs. 50/- I.P.O. Laid before Hon'ble court for orders.	1.2.2001. (Shillong)	Heard Mr. M. Chanda, learned counsel for the applicant. The application is admitted. Call for the records, returnable by three weeks. Mr. A. Deb Roy, learned Sr. C.G.S.C. accepts notice. List it on 22.3.01 for orders.
15-2-2001 Service of Notice served on 14-2-2001 & issued to 8.5.01 the respondents vide No. C59-663 dt. 23.2.2001 27.3.01	nkm	I.C.Ushar Member
Notice duly served from & w/ report No. 1-5.		Written statement has already been filed. The applicant may file rejoinder within two weeks from today. List on 31.5.01 for order.

Notes of the Registry	Date	Order of the Registry
<u>9.4.2001</u> W/S has been submitted by the Respondents.	31.5.01 mb	No rejoinder has so far been filed. List the case for hearing 27-6-2001. The applicant may file rejoinder, if any, within 10 days from today. Vice-Chairman
<u>30.4.01</u> This case was admitted by the Hon'ble Bench. Thereby, by mistake, it was mentioned in diary as submitted for order on 8.5.01.	27.6.01 pg	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. Usha Member
<u>26.6.01</u> Copy of the Judgment has been sent to the Office for, surely to the Appellants as well as to the Sri. C. B. S. C.		Vice-Chairman
<u>13/7/2001</u>		

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 50 of 2001.

DATE OF DECISION. 27-6-2001.

Sri Muktar Singh and another

PETITIONER(S)

Sri M.Chanda

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A.Deb Roy, Sr.C.G.S.C

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

THE HON'BLE MR JUSTICE R.R.K.TRIVEDI, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

DATE OF DECISION.

1. Whether Reporters of local papers may be allowed to see the judgment ?

PETITIONER(S)

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

ADVOCATE FOR THE

4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE

THE HON'BLE

DATE OF DECISION.

1. Whether Reporters of local papers may be allowed to see the judgment ?

PETITIONER(S)

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

ADVOCATE FOR THE

RESPONDENT(S)

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CENTRAL ADMINISTRATIVE TIRBUNAL, GUWAHATI BENCH.

Original Application No. 50 of 2001.

Date of Order : This the 27th Day of June, 2001.

The Hon'ble Mr Justice R.R.K.Trivedi, Vice-Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

1. Shri Muktar Singh
MES No. 223501
2. Sri Sahab Md. Ali,
MES No.229167
Garrison Engineer,
Shillong.

. . . Applicants.

By Advocate Mr M.Chanda,

- Versus -

1. Union of India,
represented by the Secretary
to the Government of India,
Ministry of Defence,
New Delhi.
2. Headquarter Chief Engineer,
Eastern Command,
Fort William,
Calcutta.
3. The Controller of Defence Accounts,
Narengi, Guwahati-26.
4. The Army Headquarter,
Engineer-in-Chief's Branch,
Kashmir House,
DHQ, New Delhi.
5. The Garrison Engineer,
M.E.S.,
Shillong.

. . . Respondents.

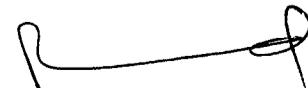
By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

TRIVEDI J.(V.C.)

We have heard Mr M.Chanda, learned counsel for the applicants and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.

2. By this application under Section 19 of the Administrative Tribunals Act 1985 the applicants have prayed for direction to the respondents to regularise the promotion



contd..2

of the applicants to the post of Motor Pump Attendant (now designated as Fitter General Mechanic) in the pay scale of Rs. 950-1500/-.

3. The facts in short giving rise to the claim of the applicants are that the applicants were initially appointed Mazdoor in the year 1972 under the Control of Commander Works Engineer, MES, Shillong. From the post of Mazdoor they were promoted as Motor Pump Attendant with effect from 5.9.83. The applicants were further reverted to the post of Mate MPA vide order dated 24.11. 1986. However, the applicants were continued as MPA in the same pay scale. The learned counsel for the applicants has submitted that this Tribunal in several cases filed against reversion, have already granted relief to the applicants and these applicants are also entitled for same relief.

4. Written statement has been filed in which though material facts have not been disputed but claim of the applicants has been resisted on the ground that as they were not applicants in O.A.70/97, hence they are not entitled for the benefit of the orders passed by this Tribunal in earlier cases.

5. We have considered the submissions of the counsel for the parties. The judgment of the Tribunal dated 5.2.2001 has been filed before us, in which under similar circumstances relief has been granted to the applicants in O.A.77/2000, though they not party to the O.A.70/97. In our opinion there appears no justifiable ground on which basis the applicants may be denied relief, which has been granted to the entire class belonging to MPA.



contd..3

6. The application is accordingly allowed with a direction to the respondents to treat the applicants as Motor Pump Attendant with effect from the date they were initially promoted to the said post and pay them the scale of Rs.950-1500/-. Amount, if any, recovered from the applicants shall be refunded to them within 3 months from today.

There will be no order as to costs.

K. K. Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

R. R. K. Trivedi
(R.R.K. TRIVEDI)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GURKHA BENCH.

WS
1/2/2011

O.A. No. 50 /2001.

S hri M.Singh & Ors.

Vs.

Union of India & Ors.

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Dated

Filed by :

Filed by the applicant
through advocate in
Gurkha Chamber of Commerce
Dated on 1-2-2011

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985).

O.A. No. 50 /2001

BETWEEN

1. Shri Muktar Singh
Son of
MES No. 223501
T.C.M. E/M Section
Garrison Engineer,
Shillong.
2. Sri Sahab Md. Ali
Son of
M.E.S. No. 229167
F.G.M., E/M Section
Garrison Engineer,
Shillong.

... Applicants

-AND-

1. The Union of India,
Represented by the Secretary
to the Government of India,
Ministry of Defence,
New Delhi.
2. Headquarter Chief Engineer,
Eastern Command,
Fort William,
Calcutta

Contd...

Sahab Md. Ali

Filed by the applicant
Chang & Voca & Son
G. K. Chakraborty & Co. Ltd.

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

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

5. The Garrison Engineer,
M.E.S.,
Shillong.

.... Respondents.

DETAILS OF APPLICATION

1. Particulars of orders against which this application is made.

This application is made ~~again~~ praying for benefit of the Judgement and order passed in O.A. No. 76/96 and C.A. No. ~~xx4x97x~~ 110/96, 109/96 and 102 of 98 and also praying for extension of benefit of the order issued under letter No. 90237/3180/EIC (Legal-D) 243/CC/X.AP dated 26.12.97 as the applicants are similarly situated like those applicants in O.A. Nos. 70 of 1997, 109/96, 110/96, 102/98 and praying for regularisation of promotion of the applicants to the grade Motor Pump Attendant (now redesignated as Fitter General Mechanic) from their respective date of original promotion order to the post of Motor Pump Attendant in terms of recommendation of Headquarter

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Chief Engineer, Shillong Zone, S.E. Falls, Shillong-793011 letter No. 70811/1-A/3371/EIC(2) dated 9.12.96 addressed to Headquarter Chief Engineer, Eastern Command, Fort William, Calcutta-21 as the applicants are still working in the cadre of Motor Pump Attendant (in short MPA) in the pay scale of Rs. 260-400 (revised Rs. 950-1500) on the recommendation of the IVth Central Pay Commission) and also praying for a direction upon the respondents not to make any recovery from their salary in terms of Headquarter, Eastern Command, Fort William, Calcutta letter No. 131950/55/237/Engrs/EIC(C) dated 10.11.1986 and also praying for a direction to the respondents to refund the recovered amount already made by the respondents from the pay of the applicants.

2. Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation

The applicants further declare that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1 That both the applicants are citizens of India and as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. Both the applicants are presently serving as Motor Pump Attendant (in short MPA) now redesignated as Fitter

Sahali Mukherjee

General Mechanic (in short FGM) in the pay scale of Rs. 260-400 (Pre revised) revised Rs. 950-1500 on the recommendation of the IVth Central Pay Commission under the Garrison Engineer, Military Engineering Service (in short MES), Shillong, Meghalaya.

4.2 That the cause of action and reliefs sought for in this application are common and therefore the applicants pray before the Hon'ble Tribunal to allow them to move this application jointly in a single application under the provisions of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That both the applicants were initially appointed as Mazdoor in the year 1972 under the control of Commander Works Engineer, MES, Shillong. Thereafter both the applicants were promoted to the post of Motor Pump Attendant against regular vacancies on The references of promotion orders are furnished hereunder.

The applicant No. 1 was promoted to the post of MPA with effect from 5.9.1983 vide Part Order No. dated 5.9.83 and the applicant No. was also promoted to the post of MPA with effect from 5.9.1983 after being duly qualified in the Trade Test and also after observing all formalities both the applicants had been promoted to the post of Motor Pump Attendant (now redesignated as Fitter General Mechanic). In this connection it is stated a period of 2 years probation was stipulated for the applicants accordingly both the applicants has successfully completed their probationary period of

Contd...

Sahai, D. D.

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two years and they were allowed to work continuously in the promotional post of MPA.

Reference of promotion orders of the applicants are annexed hereto and the same are marked as Annexure-1 (series).

4.4 That the respondents based on the recommendation of Expert Classification Committee Report, Government of India, Ministry of Defence, revised the pay scale of Rs. 210-290 to Rs. 260-400 with effect from 16.10.1981 vide order dated 11.5.1983 and as a result of this fitment, both the applicants who have since been promoted from Mazdoor after the year 1984 to the post of MPAs now redesignated as FGM were fitted in the pay scale of Rs. 260-400 by the Garrison Engineer. But most surprisingly at a later date vide Headquarter letter No. 131950/55/237/ENGRS/EIR(C) dated 10.11.1986 had held that fitment in the revised pay scale of MPAs those who have been promoted from Mazdoor/Chowkidar/Safaiwala after 16.10.1981 was irregular and they required to be reverted to the scale of Rs. 210-290 and their promotions would be treated as Mate MPA and further they can be considered for promotion only after they have completed 3 years of service, in the grade of Mate MPA. Accordingly Commander Works Engineer, Shillong issued instructions to all Garrison Engineers based on directive of Headquarters as mentioned in the Headquarter Eastern Command letter dated 10.11.1986 had issued reversion order by placing the applicants from MPAs to Mate MPAs., with effect from their original date of promotion to the post of MPA. The reversion orders were issued by PTO No. 47 dated 24.11.1986. But the applicants even after the reversion orders were

allowed to discharge the same work of MPA and they were retained in the post of MPA in the pay scale of Rs.260-400, therefore no reversion took place physically although in papers the order of reversion was passed and till date they are working in the post of MPAs with the revised scale of pay of Rs. 950-1500 and therefore both the applicants who are working for a long time since 1983 are entitled to be regularised in the post of MPA (Now FGM) on the pay scale of Rs. 260-400 (Revised Rs. 950-1500 on the recommendation of the IVth Central Pay Commission) with retrospective effect from the date of initial promotion with all consequential service benefits including monetary benefits.

4.5 That your applicants further beg to state that the Headquarter Eastern Command, Calcutta vide their letter No. 131950/55/237/Engrs/EIA(C) dated 10.11.1986 (Annexure a) and Army Headquarter, Engineer-in Chief's Branch, New Delhi vide letter No. 90270/89/EIC(3) dated 22.10.86 wherein it is held that the promotions of Mazdoor/Chowkidar/Safaiwala to the post of MPA in the scale of pay of Rs. 260-400 after issuance of Government of India's letter No. 1(2)/80/ECC/10 dated 11.5.1983 is highly irregular and they should be brought down to the scale of Mate MPA from the pay scale of Rs. 260-400 to the scale of Mate MPA i.e. in the pay scale of Rs.210-290 and it is further directed that the excess payment made to the applicants on account of wrong promotion should be recovered, the relevant portion of the letter dated 19.11.1986 is quoted below :

"3. In view of the position explained, the Mazdoor/Chowkidar/ Safaiwala who have been promoted to the post of MPA in the scale of

Sahabzadi

Pay of Rs. 260-400 after the issue of Min. of Defence letter dated 11 May '83, should be promoted to the post of Mate (MPA) in the pay scale of Rs. 210-230. The excess^p payment made to them on account of wrong promotion should be recovered.

As regards recovery, it may be stated that recovery has already been made till date from both the applicants in terms of the above impugned order which is highly illegal, arbitrary, unfair and discriminatory especially when the services of the applicants were utilised to the post of MPA rightly or wrongly, therefore the amount already recovered in terms of the above mentioned impugned order by the respondents are liable to be refunded to the present applicants and the applicants further apprehending that as the applicants are still retained in the pay scale of Rs. 260-400⁰ (Revised Rs. 950-1500) on the recommendation of the IV Central Pay Commission) enjoying the revised pay scale and the Army Headquarter and Engineering in Chief's Branch as well as Eastern Command Calcutta not approving the regularisation of their services which is evident from the Headquarter Chief Engineer Shillong zone letter dated 9.12.96 that the respondents may again start recovery as the applicants are now enjoying the pay scale of Rs. 260-400 (Revised 950-1500 on the Recommendation of the IV Central Pay Commission). The respondents also made efforts for recovery of over payment ~~vide~~ letter No. 1003/C/MPA/1986/505/EIR dated 21.4.92 and also under letter No. 1003/C/MPA/1986/504/EIE dated 2.4.92 Therefore the Hon'ble Tribunal be pleased to direct the respondents to refund the amount already recovered from the pay of the applicants and further be pleased to direct,

Sahai and Dabhi

the respondents not to make any recovery from the applicants till disposal of this application.

Copies of the letters dated 10.11.96, 22.10.86, 9.12.96, 7.8.91, 2.4.92 and 21.4.92 are annexed hereto and the same are marked as Annexures-2,3,45,6, and 7 respectively.

4.6 That your applicants further beg to state that due to issuance of contrary orders from time to time regarding promotion in respect of Mazdoor/Chowkidar/Safaiwala serving under Commander Works Engineering, Shillong has led to a very anomalous situation and therefore the applicants are suffering at this stage in the matter promotion and although in fact they have continuously serving in the post of MPA in the scale of Rs. 260-400 (Revised 950-1500) since 1983 although reversion order shows with retrospective effect following amendment of the earlier promotion order subsequently after a long period only in the years 1991-92. But in fact all these years they are serving in the grade of Motor Pump Attendant (Now Fitter General Mechanic) without any lapse on the part of the applicants due to the adoption of a wrong policy by the respondents. The applicants are suffering again and again in the matter of their promotion to the post of MPA on regular basis as well as the applicants are also suffering following the order of recovery of pay and allowances which was granted to the applicants following their promotion to the post of MPA. As a result, also the applicants are facing financial hardships and their service career as regard their promotion to the post of MPA, as the Eastern Command, Calcutta as well as Army Headquarter, New Delhi did not approve till

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date the proposal of regularisation issued by the Chief Engineer, Shillong zone, under letter No. 70811/1-A/371/EIC (2) dated 9.12.1996 wherein the Chief Engineer in detail explained the peculiar situation arises due to issuance of contradictory orders from time to time and further requested to regularise the promotion of the applicants in the grade of MPA (Now FGM) since 1983 for about 17 years, therefore their services in the grade of MPA (Now FGM) required to be regularised with retrospective effect from the date of their initial promotion to the post of MPA, now redesignated as Fitter General Mechanic. In this connection, it may also be stated that the Commander Works Engineer vide his letter No. 1046/359/EIA dated 23.8.96 addressed to the Garrison Engineer, Shillong wherein it is requested for extension of the benefits of the Judgement and Order passed in O.A. No. 144/89 and O.A. No. 196 of 1989 to the affected MPAs (now FGM) under CWE Shillong area. It is also stated in the said letter that although the case for regularisation of promotion of Motor Pump Attendant has already been taken up by the Headquarter and also engaging the attention of higher headquarter at this stage. From the aforesaid letter dated 23.8.96 it is evident that the authorities also aware regarding the sufferings of the present applicants for non-regularisation of their promotion to the post of Motor Pump Attendant (now redesignated as Fitter General Mechanic) therefore the applicants are entitled to be regularised to the post of Motor Pump Attendant with effect from their respective initial date of promotion and also entitled to consequential service benefit and the Hon'ble Tribunal also be pleased to direct the respondents to

Soham Dutt

refund the amount which has already been recovered from the pay of the applicants on the ground that the promotion to the post of Motor Pump Attendant were irregular. However, in spite of their best efforts applicants could not collect the letter dated 23.8.1996.

4.7 That your applicants beg to state that they have submitted representations before the competent authorities for regularisation of their promotion to the post of MPA on 3.7.98 and with prayer for extension of the benefit of the Judgement and Order passed by the Hon'ble Tribunal, Calcutta Bench and Guwahati Bench in the case of similarly situation Motor Pump Attendants like the applicants but the respondents have not taken any initiative on their representations.

Copy of the representations dated 3.7.98 submitted by the applicants are enclosed as Annexure-8 (series).

4.8 That your applicants beg to state that the Members of the Meghalaya MES Civilian Workers' Union, Shillong which is registered and affiliated with All India Defence Employees Federation and the said Union has taken up the matter of promotion of the applicants and other similarly situated employees serving under MES, Meghalaya, Shillong and the said Union vide their letter No. MNU/09/Corr/96 dated 26.6.96 addressed to the Commander Works Engineers prayed for regularisation of promotion of MPAs promoted from the post of Mazdoor, Chowkidar, Safaiwala and also prayed inter alia to extend the benefit of Judgement and order dated 29.6.90 passed in O.A. No. 144 (G)/1989 (Shri Parasuram Deka & Another Vs. U.O.I. & Ors.) and O.A.



No. 196 (G)/1989 (Shri Upendra Chandra Kakati & Others vs. U.O.I. & Ors.) and also the decision of the Review Application No. 12 of 1990 and 66 of 1990 in O.A. Nos. 144/89 and 196/89 dated 20.11.90. But the respondents have not taken any initiative for regularisation of the promotion of the applicants as well as for consideration of their promotion to the post of HS Grade II and HS Grade I. In the circumstances stated above finding no other alternative the applicants approaching this Hon'ble Tribunal for redressal of their grievances by filing this original application praying for a direction upon the respondents to regularise their initial promotion to the post of Fitter General Mechanic with retrospective effect i.e. with effect from the date of their promotion to the post of MPA (now redesignated as Fitter General Mechanic) and for immediate consideration of their further promotion to the post of HS Grade II and HS Grade I in the light of the instructions contained in the Ministry of Defence under letter dated 6.7.94 and Army Headquarter letter dated 21.7.94 with retrospective effect.

A copy of the letter dated 26.6.96 and copy of the judgement & order dated 29.6.90 passed in O.A. Nos. 144 (G) & 196 (G)/89 and copy of the Judgement and Order passed in the Review Application Nos. 12/90 & 66/90 (O.A. No. 144/89 & 196/89) dated 20.11.90 are annexed hereto and same are marked as Annexures-9, 10, and 11 respectively.

4.9 That your applicants beg to state that some of the similarly situated employees of the MES Department approached this Hon'ble Tribunal through an Original

Sakshi Datta

Application No. 70/1997 praying for similar benefits and the Hon'ble Tribunal by its Judgement and Order dated 7.4.97 passed in O.A. No. 70 of 1997 was pleased to allow the Original Application with a direction to the respondents to give all the benefits to the applicants in the scale of pay of Motor Pump Attendants of Rs. 260-400 (now revised to Rs. 950-1500) on the recommendation of the Ivth Pay Commission). The recovered amount from those applicants shall be refunded to them at any rate within a period of three months from the date of receipt of that order.

The Army Headquarter have decided to implement the judgement & order dated 7.4.97 passed in O.A. No. 70 of 1997 vide their Order bearing No. 90237/3180/EIC(Legal-D)/243/SC/K.Ap dated 26.12.97 but the same benefit has been restricted to the applicants of O.A. No. 70 of 1997 although the Judgement and order passed in O.A. No. 70 of 1997 dated 7-4-97 is the Judgement in rem and as the present applicants are also similarly situated they are also entitled to the benefit of the Judgement and Order dated 7.4.97 passed in O.A. No. 70 of 1997 and also the benefit of the order dated 26.12.1997 issued in pursuance of the order dated 7.4.97 passed by the Hon'ble Tribunal in O.A. No. 70 of 1997. Further a group of similarly situated MPAs of MES department approached this Hon'ble Tribunal through O.A. No. 102/98 (Shri Ramesh Prasad Ram & Ors Vs. U.O.I. & Ors.) and O.A. No. 313/98 decided on 7.9.99 and the Hon'ble Tribunal was pleased to allow the Original Application in favour of the applicants by its Judgement & Order dated 7.9.1999.

Copy of the Judgement & Order dated 7.4.97 passed in O.A. No. 70/97 and Jusgement and Order

Sohail M. Dodi

dated 7.9.99 passed in O.A. No. 313/98 and letter dt. 26.12.97 are annexed hereto and marked as Annexures-12, 13, & 14 respectively.

4.10 That your applicants beg to state that the respondents while implementing the recommendation of the Vth Central Pay Commission the applicants have been paid arrear pay and allowances in the corresponding scale of Rs. 950-1500. However after payment of the arrears the respondents have again started recovery of the amount which was paid to the applicants and said recoveries are still continuing on the plea that the applicants are not entitled to the corresponding revised pay scale. In the instant application the applicants pray before the Hon'ble Tribunal for an interim order directing the respondents not to make any recovery till final disposal of this application.

4.11 That your applicants beg to state that the Govt. of India, Ministry of Defence have decided to implement the Judgement & Order dated 7.4.97 passed in O.A. No. 70 of 1997 in favour of those applicants of O.A. No. 70/97. It is stated that in the letter dated 26.12.97 issued by the Under Secretary to the Government of India wherein it is stated that the applicants be given benefit of scale of pay of Rs. 260-400 (revised 950-1500) with effect from their respective date of promotion to the post of MPA and also stated that the applicants of 70 of 1997 are entitled for refund of amount if recovered. Therefore, further cause of action has arisen when the similarly situated applicants have been granted the benefit

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of the scale of Rs. 260-400 (Revised Rs. 950-1500) with effect from their respective date of promotion to the post of MPA vide order dated 26.12.97 therefore that applicants are also legally entitled for extension of the benefit of the order of Govt. of India, Ministry of Defence as the present applicants are similarly situated like that of the applicants of O.A. 70 of 1997 and O.A. No. 102/98 and O.A. No. 313/98.

4.12 That this application is made bonafide and ~~thex~~ for the cause of justice.

5. Grounds for relief with legal provisions :

5.1 For that the applicants in fact working in the post of Motor Pump Attendant are redesignated as Fitter General Mechanic since last 17 years therefore they are entitled to be regularised in the post of MPA with all consequential service benefits including monetary benefits.

5.2 For that the applicants were duly promoted to the post of MPA (now redesignated as Fitter General Mechanic) following the due procedure of law and Trade Test.

5.3 For that the applicants are not responsible for issuance of contradictory orders in the matter of promotion issued by the authorities to the post of Motor Pump Attendant as well as in the matter of fitment in the scale of Rs. 260-400 (Revised Rs. 950-1500).

5.4 For that the applicants are still being utilised in the post of Motor Pump Attendant which are not being accepted by the Higher Authority, Eastern

Sahale Dutt

Command, Calcutta as reflected in the letter dated 9.12.96 for no fault of the applicants.

5.5 For that the applicants are eligible to hold the post of MPA (Now redesignated as FGM) in all respects and also entitled to be regularised from the date of their respective initial promotion i.e. with effect from 5.9.1983.

5.6 For that the applicants are entitled to retrospective promotion in pursuance of the order and instructions made in Government of India, Ministry of Defence letter dated 26.12.97 issued by the Under Secretary, Govt. of India, Ministry of Defence, New Delhi in the light of Judgement and order passed by the Hon'ble Tribunal in O.A. No. 70 of 1997 dated 7.4.1997.

5.7 For that the applicants are low paid employees of the Government of India, Ministry of Defence and are entitled to at least one or two promotions in their service career in terms of the recruitment policy.

5.8 For that the decision of recovery of pay and allowances due to contrary orders issued by the respondents are highly illegal, arbitrary and unfair.

5.9 For that the causes and sufferings of the applicants has rightly been reflected in the recommendation letter dated 9.12.96 of the Cheif Engineer, Shillong Zone, Shillong.

Soham Dutt

5.10 For that no action has yet been taken after a lapse of 18 years for regularisation of promotion to the post of MPA (now redesignated as FGM) in respect of the applicants by the respondents.

5.11 For that the applicants are entitled to get back the amount already recovered from their pay and allowances as they were in fact worked to the post of MPA (Now redesignated as FGM).

5.12 For that any further recovery, if any will be caused irreparable loss to the applicants.

5.13 ~~For that the applicants are entitled to get back the amount already recovered from their pay and allowances as they were in fact worked to the post of MPA (Now redesignated as FGM).~~

5.14 For that the action of the respondents are violative of Articles 14 and 16 of the Constitution of India.

6. Details of remedies exhausted
That the applicants state that they have no other alternative and other efficacious remedy than to file this application. Representation through proper channel were submitted by the applicants to the competent authority

Sohale Dutt

7.

Matters not previously filed or pending with any other court.

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8.

Reliefs sought of :

In view of the facts and circumstances stated in paragraph 4 of this application, the applicants pray for the following reliefs :

8.1

That the respondents be directed to regularise the promotion of the present applicants to the post of MPA (Now redesignated as Fitter General Mechanic) in the pay scale of Rs. 260-400 (Revised Rs. 950-1500) on the recommendation of the IVth Central Pay Commission from the date of their initial promotion in the light of the recommendation made by the Chief Engineer, Shillong Zone, MES, Shillong bearing letter No. 70111/1/A/3371/ERC(2) dated 9.12.96 (Annexure-4) and also in the light of the Judgement and Order dated 7.4.97 passed in O. A. No. 70/97 (Annexure-12) and Judgement and Order dated 7.9.99 passed in O.A. No. 313/98 (Annexure-13) and also in terms of Govt. of India, Ministry of Defence letter Bearing No. 90257/3180/EIC(Legal-B)/243/CC/I.AP dated 26.12.1997 issued by the Under Secretary to the

Sahilwadhi

Govt. of India, New Delhi, with retrospective effect with all consequential service benefits including monetary benefits.

8.2 That the respondents be directed not to make any recovery from the pay of the applicants so far as the promotion to the post of MPA is concerned.

8.3 That the respondents be directed to refund the amount already recovered from the pay of the applicants in connection with their promotion to the post of MPA.

8.4 Costs of the application.

8.5 Any other relief or reliefs to which the applicants are entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim relief prayed for :

During pendency of this application, the applicants pray for the following interim relief :

9.1 That the respondents be directed not to make any recovery from the pay and allowances of the applicants so far as the promotion to the post of MPA is concerned till final disposal of this application.

The above reliefs are prayed on the grounds explained in paragraph 5 of this application.

10.

This application is filed through Advocate.

Sahai & Dutt

11. Particulars of I.P.O.

- i. Postal Order No. : 56421948
- ii. Date of Issue : 21-2-1967
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. List of enclosures

As stated in the Index.

.....Verification.

VERIFICATION

I, Sahab Md. Ali, Son of applicant in the above case aged about 54 years, working as Motor Pump Attendant/F.G.M. in the office of the Garrison Engineer, Military Engineering Service, Shillong, one of the applicants in this application and I am duly authorised by the other applicant to verify the statement made in this application accordingly I do hereby declare that the statement made in this application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and the statements made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the
day 2000.



Signature

GE Shillong P.T.O No. 47 dated 24.11. 86 ~~Ref. No.~~ Page 9 of 14

Part IV(b) (Contd)

30. MES 228920 MPA(TY) Ref. FE Shillong PTO No. 17/6/86
Sri Bala Krishna
Sharma
For " Promotion as MPA"
Read " Promotion as Mate MPA"
For " Promoted to MPA on proba-
tion for 2 years.
Read " Promoted to Mate (MPA) on
probation for 2 years.

For " in the scale of pay of
Rs. 260-6-290-EB-6-326-8-
365-EB-8-390-10-400 p.m.

Read " in the scale of pay of
Rs. 210-4-226-EB-4-350-
EB-5-290/- p.m.

All other entries remain unchanged.

31. MES 229167 MPA(TY) Ref G. Shillong PTO 36/31/83
Sri Sahab
Md. Ali
For " Promoted to MPA"
Read " Promoted to Mate (MPA)"

All other entries remain unchanged.

32. MES 229148 MPA(TY) Ref. G. Shillong PTO No. 36/26/83
Sri C.W. Lama
For " Promoted to MPA
Read " Promoted to Mate MPA"

All other entries remain unchanged.

33. MES 229010 MPA(TY) Ref. GE Shillong PTO No. 36/27/
Sri Pherbok
Dingdoh
83.
For " Promoted to MPA"

Read " Promoted to Mate MPA"

All other entries remain unchanged.

Sd/- Illegible
AGE 'T'
for GE Shillong

Annexure-1 (Series)

GE Shillong PTO No. 50 dated 12.12.83 Page 4 & last

Part IV (b) (Contd.)

Fixation of pay

12. MES 229063	MPA (Prob)	29.8.83 (F/N)	Pay fixed provisionally at Rs. 260/- p.m. being minimum in the scale of Rs. 260-6-290 -EB-6-326-8-366-EB-8-390-10-400/- p.m. in terms of Army Hq-E.in. C's br. letter No. 90270/89/EIC dated 2 May 83 and CCDA No. 2296/ATF dt. 17-18.10.83.
13 MES 223501 Sri Muktar Singh	MPA (Prob)	29.8.83 (F/N)	-do-
14 MES 229010 Sri Pherbeck Dingdon	MPA (Prob)	29.8.83 (F/N)	-do-
15 MES 229148	MPA (Prob)	29.8.93 (F/N)	-do-
16 MES 228527 Sri Nipendra Ch. Paul	MPA (Prob)	29.8.83 (F/N)	-do-
17. MES 229110 Sri Rishikesh Paul	MPA (Prob)	29.8.83 (F/N)	-do-
18. MES 229167 Sri Saheb Md. Ali	MPA (Prpb)	29.8.83 (F/N)	-do-
19 MES 238551 Sri Badal Deb Nath	MPA (Prob)	Service verified upto 31.3.83 from paid pay bills.	

Sd/- Illegible
for Garrison Engineer.

Part II Order No. 36 dated 5.9.83 Page 7

	<u>Promotion</u>		<u>Part IV(b) (Contd.)</u>
29.	MES/228527 Sri Nripendra Ch. Paul	Mazdoor Q/Pt	29.8.83 Promoted to MPA on probation for 2 years placed in position wef the same date.
30.	MES-229110 Sri Rishikesh Paul	Mazdoor	26.8.83 Seniority in the gde. 29.8.83 Promoted to MPA on probation for 2 years placed in position wef the same date.
31	MES/ NYA Sri Saheb Md. Ali	Mazdoor	26.8.83 Seniority in the gde. 29.8.83 Promoted to MPA on probation for 2 years Palced in psotion wef the same date.
32	MES 238551 Sri Badal Deb Nath	Mazdoor	26.8.83 Seniority in the gde. 29.8.83 Promoted to MPA on probation for 2 years. placed in position wef the same date.
			26.8.83 Seniority in the gde.

Authority :CWE Shillong letter No. (Sl. No. /3935/EIA dated
26.8.83 to 29.8.83.

Increment

33.	MES/229065 Sri Kataki Ranjan Deb	L/Man QP/t	1.7.1980 Earned annual increment of Rs.4/- p.m. in gde of L/Man raising pay from Rs.242/- to 246/- p.m.
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Sd/- Illegible
AGE (T)
for GE, Shillong

Annexure-2

Headquarters Eastern Command
Fort William, Calcutta-700021

No. 131950/55/237/Engrs/EIR (C) 10 Nov '86

Chief Engineer
Shillong Zone,
Calcutta Zone,
Siliguri Zone,
Civil Engg. Cell, OPB Calcutta
C C EST Mankindra
STE EC Patna

FITMENT OF INDUSTRIAL WORKERS OF MES IN THE PAY
SCALES RECOMMENDED BY THE THIRD PAY COMMISSION
OF MPA TO SKILLED PAY SCALES.

1. In accordance with Govt. of India, the Min. of Def. letter No. 1(2)/SC/D(ECC) IC dated 11.5.83, the post of MPA has been assigned the scale of pay of Rs. 260-400 in the category of skilled worker. It followed that the feeder category to the post of category of MPA is to be semi-skilled in the scale of pay of Rs. 210-250. As per the then recruitment rules the Mazdoor/Chowkidars and Safaiwalas, an unskilled categories were eligible for promotion to the post of MPA after issue of Govt. letter dt. 11 May 83 without proper identification of feeder category or seeking clarification due to changed position. Moreover, the E-in-C's Br. identified the feeder category to MPA as mate, vide their letter No. 90270/89/210 dt. 20 Dec '83 which was further clarified in their letters No. 90270/89/EIC dt. 11 July 84 and 13 Nov '84. But some of the formations in out Command probably not taking the instructions/clarifications issued by E-in-C's Br/this Hqrs. on the subject in its right perspective continued to promote Mazdoors/Chowkidars and Safaiwalas to the post of MPA.
2. The matter having been brought to our notice whether the Mazdoors/Chowkidars and Safaiwalas promoted to the post

Contd....

3
Annexure-2 (Contd.)

of MPA before the issue of E-in-C's Br. instructions dt. 11 July 1994 should also be brought down to the post of Mate (MPA) in the pay scale of Rs. 210-290, was further taken up with E-in-C's Br. It has now been clarified by E-in-C Br. letter (Copy enclosed) that the promotions of Mazdoor/ Chowkidar and Safaiwala to the post of MPA in the scale of pay of Rs. 260-400 after the issue of Govt. letter dt. 11 May 83 is highly irregular and they should be brought down to the scale of Mate (MPA) in the pay scale of Rs. 210-290.

3. In view of the position explained, the Mazdoor/ Chowkidar/Safaiwala who have been promoted to the post of MPA in the scale of pay of Rs. 260-400 after the issue of Min. of Defence letter dt. 11 May '83, should be promoted to the post of Mate (MPA) in the pay scale of Rs. 210-290. The excess payment made to them on account of wrong promotion should be recovered.

4. The complete report be given to this Hqrs. by 10th Dec '86 positively.

Please ack receipt.

Sd/- N.S. Dhillion
SO2 (R)
for Chief Engineer

Copy to

All CWE

All CEs/AGES (Indep), Engr Park.

Annexure-3

ARMY HEADQUARTERS
Engineer-in-Chief's Branch
DHQ P.O. New Delhi 110011

80270/89/EIC (3)

22 Oct 86

Chief Engineer
HQ Eastern Command
Calcutta-21

FITMENT OF INDUSTRIAL WORKERS OF MES IN THE PAY
SCALE RECOMMENDED BY THE THIRD PAY COMMISSION
OF MPA TO SKILLED PAY SCALES.

1. Reference your letter No. 131950/55/218/Engrs/
EIR (C dated Sep '86).
2. The category of MPA was semi-skilled trade and
hence placed in the pay scale of Rs. 210-290 on the recommenda-
tion of the Third Pay Commission w.e.f. 01 June 73 is
a result of fitment of Industrial workers of MES in the
pay scales recommended by the ECG issued vide Ministry of
Defence letter No. 1(2)/80/D(ECC/IC) dated 16 Oct '81 this
category was fitted in the pay scale of Rs. 210-290. However
in the subsequent orders issued by Ministry of Defence vide
letter No. 1(2)/80/D(ECC/IC) dated 11 May '83 the post of
MPA was fitted in the pay scale of Rs. 260-400 for which the
feeder categories were to be identified from the pay scale
of Rs. 210-290. Therefore, Mazdoors/Chowkidars and Safaiwalas
were to be promoted in the pay scale of Rs. 210-290 upto 11
May '83 when the Government issued order for upgrading the
post of MPA to Rs. 260-400. After issue of the Govt. orders
dated 11 May 83 the feeder category to the post of MPA in
the pay scale of Rs. 210-290 was identified as Mate (MPA).
Therefore the promotion orders of Mazdoors/Chowkidars/
Safaiwala to the pay scale of Rs. 260-400 are considered
highly irregular.
3. In view of the position explained above, the pay
fixation cases of such of the Mazdoors/Chowkidars and
Safaiwalas who have been promoted to the post of MPA w.e.f
11.5.83 be fitted in the pay scale of Rs. 210-290. Suitable
instructions be issued to the concerned units to amend the
promotion orders immediately and place them in semi-skilled
pay scale of Rs. 210-290 as Mate MPA).

Sd/-

(K.B. SETHI)
Col.
Dir. Pers (MES)
for Engineer-in-Chief.

35
Annexure-4

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong

70811/1-A/2371/1/ERC (2)

Headquarters
Chief Engineer
Eastern Command
Fort William
Calcutta-21

Regularisation of promotion of MPAs (now FGMs) vis-a-vis consideration of extension of benefit of CAT Guwahati Bench Judgement dated 29.6.90 (O.A. No. 144/89 and O. A. No. 195/89 to all the affected MPAs (Now FGMs) under CWE, Shillong area.

1. Reference Megehalaya MES Civilian Workers' Union Memorandum bearing No. MNU/09/Corr/96 dated 26 Jun 96 addressed to CWE Shillong copy endorsed to this HQ amongst other (Photostat copy enclosed).
2. Following comments are offered as above referred memorandum :-
3. Background of the Case.
 - (a) About 40 members of Mazdoors/Chowkidars/Safai-walas of Shillong area were promoted to the grade of MPA (New EGM) re-designated as ~~EX~~ (FGM) in between the year 1982 to 1984 in accordance with old recruitment rules published in E-in-C's standing order (1971) print and after they have duly qualified in trade test as per syllabus. In accordance with said recruitment rules Mazdoor/Chowkidar/ Safaiwala whose pay scale was 196-232 (Pre-revised) (750-940) revised) were the feeder categories for promotion to MPA (now FGM) and pay scale of MPA at that time was 210-290 pre-revised (800-1150 revised).

Contd...

Annexure-4 (Contd.)

(b) Based on the recommendations of Expert Classification Committee report, Government of India, Ministry of Defence vide their letter No. 1(2)/80/D(ECC/IC) dated 11 May '83. In this connection please refer Govt. of India Min of Def. letter cited above revised the pay scale of MPA Now (FGM) from 210-290 to 260-400 wef 16 Oct '81. As a result of this fitment, all the MPAs (Now FGMs) who have since been promoted from Mazdoor/Chowkidar/Safaiwalas upto the year 1984, in their area were fitted in the revised scale 260-400 by the respective GEs in their area.

(c) However, at a later date vide your HQ letter No. 131 950/55/237/Engrs/EIR (C) dated 10 Nov 86 had held that fitment in the revised pay scale of MPAs (Now FGMs) those who have been promoted from Mazdoor/Chowkidars/Safaiwalas after 16 Oct 81 is irregular and they are required to be reverted to the scale of 210-290 and their promotions would be treated as Mate (MPA) and further they can be considered for promotion only after they have completed 3 yrs service in the grade of Mate (MPA).

(d) Accordingly, CWE Shillong issued instructions to all GEs and based on directive of your HQ as mentioned in (c) above, had issued reversion order by placing all MPAs as Mate (MPA) wef their original date of promotion and after calculating their completion of three years service in the grade of Mate/MPA promoted them as MPA (skilled) in the pay scale of Rs. 260-400 by amending our earlier promotion order.

Contd....

Annexure-4 (Contd.)

(e) The above direction of your HQ has been further modified vide para 3 of E-in-C's Branch, AHG, New Delhi letter No. 90270/29/EIC dated 17 June 85 with the direction that promotion from Mate (MPA) to skilled grade of MPA in the pay scale 260-400 would be subject to passing of trade test and selection by a DPC.

(f) This has resulted a gap in technical formalities and as such CWE Shillong amended promotion order from Mate (MPA) to MPA (SK) has also been held as irregular by higher HQs and obviously a case for regularisation of their promotion has been taken up with E-in-C's Branch, AHQ, New Delhi vide your HQ letter No. 131506/2/1417/Engrs/EIC(P) dated 27 May '96.

4. CAT Judgements

(a) Being aggrieved with the aforesaid direction of the Department some MPA's (Now FGMs) had approached the jurisdiction of various Tribunals and similarly few MPAs of Narangi and AGE(I) Rangiya also approached the jurisdiction of CAT Guwahati Bench wherein the Judgement of CAT Guwahati Bench has done in favour of the petitioners. In this connection kindly refer copies of judgements of CAT Guwahati Bench enclosed with the memorandum of the Workers' Union. The gist of the judgement is appended below :

FACTS : Shri Upen Chandra Kakoti and three other as well as Sri Parasuram Sharma and other of GE Narange and AGE(I) Rangiya respectively were initially

appointed as unskilled Group 'D' workers like Mazdoors, Safaiwala etc. All of them qualified in the trade test for promotion and were promoted to the scale of Motor Pump Attendant by orders dated 27.8.1984 and 08.07.1984 respectively. The scale of pay of Motor Pump Attendant as shown in the orders was 260-400. In 1987, however, the terms and conditions of their appointment to the promotional post of Motor Pump Attendant bearing the scale of pay of Rs. 210-290 from July and August, 1984, have been changed. Being aggrieved by this order the petitioners invoked the jurisdiction of Tribunal by filing applications under Section 19 of the Administrative Tribunals Act, 1985, and after hearing the counsel for both the application CAT Judgement held as stated in succeeding paragraph :-

(c) HELD : In our opinion none of the various orders of Army Headquarters on which the respondents rely can have retrospective effect. None of the explicity even says that they will take effect from a retrospective date, the clarification or direction given by your HQ in the letter dated 10.11.96 cannot be sustained. All the applicants shall be given the benefit of the scale of Motor Pump Attendant's scale of pay 950-1500 from the date of their first promotion in 1984 and shall be allowed to draw all allowances and increments in that scale.

CWE Shillong further directs the opposite parties that no recovery on account of over payment of pay and allowances of the applicants due to re-fixation of pay from 1984 onwards shall be made. If any recovery on this account has already been made the amount shall be refunded to the applicants.

Annexure-4 (Contd.)

(d) E-in-C's Directive

As a result of this CAT Guwahati Bench, Judgement, department has already instructed to CWE Guwahati vide E-I-C's Branch AHQ New Delhi letter No. 90237/3180/EIC(3) dt. 22 Mar '91 in favour of the petitioners. However, other similar cases have now requested that the benefit of this Judgement be extended to them.

5. Present state of the case.

A case for regularisation of promotions of MPAs (Now FGMs) has already been taken up with higher HQs vide your HQ letter No. 131506/2/1417/Engrs/EIC(2) dt. 27 May '96. It however, appears that affected workers who have approached through their workers' union for early implementation of CAT Guwahati Bench Judgement dt. 29 Jun '90 are likely to approach the jurisdiction of the said CAT citing this Judgement as reference in case redressal is not given by the department.

6. Recommendations.

To avoid litigation, it is recommended that benefit of CAT Guwahati Bench Judgement dt. 29 June 1990 may be extended to all affect MPAs under CAT Shillong area as requested by them through their Workers' Union. Also the decision of E.I.C's Branch on the subject (ref para 5 above) may please be expedited.

Sd/- Jaster Synrem
A.O.I
for Chief Engineer

Copy to

CWE-II-for information with ref to your letter No. 1846/377/EIA dated Oct '96.

REGISTERED WITH A/D

Annexure-5

40

GE (Vayu Sena) Karyalaya Shillong
Office of the GE (AP) Shillong
Elephant Falls Camp
Nonglyer Post
Shillong-793009

1003/C/BPR/1986/490/ 07 Aug 91
EIR

Chief Engineer
HQ Eastern Command
Fort William
Calcutta-700 021

FITMENT OF INDUSTRIAL WORKERS OF MES IN THE PAY
SCALES RECOMMENDED BY THE THIRD PAY COMMISSION OF
MPA TO SKILLED PAY SCALES.

1. Reference your HQ letter No. 131950/2927/Engrs/EIR/C (C) dated 21 Jun '91.
2. Clarification regarding rule position of the case as explained vide your HQ letter No. 131950/7/2667/Engrs/EIR(C) dated 23 Aug '89 has been explained to the individual as desired. Now both Shri Dhan Bahadur Lama and Sri Ram Bahadur Thapa desires that they may now please be fitted in the higher scale of Rs. 260-400 i.e. in the grade of MPA (SK) at least after completion of three years of service in the semi-skilled grade (i.e. Mate (MPA) wef 19 Aug '85 in accordance with your HQ letter No. 131950/7/1981/Engrs/EIR(C) dated 08 Apr '86 (Copy enclosed).
3. In view of above this office PTO 51 Nos. 20, 21, 22 and 26 of 1991 notifying all the relevant casualties and pay fixation proforma in respect of Shri Dhan Bahadur Lama and Shri Ram Bahadur Thapa are forwarded herewith for your further necessary action towards fixation of their pay under RPR 1986 under revised scale i.e. 950-1500 at your earliest.

Enclo : As above

Sd/- D.K.Guha
AGE (Plg)
for Garrison Engineer

NOTION ORIGINAL :

Copy to :

A GE E/H(AF) Shillong

This office PTO Sl. Nos. 20, 21, 22 and 26 duly attending/notifying casualties regarding pay fixation/ fitment of four MPAs are forwarded herewith for your immediate action for claiming arrears bill in respect of Shri D.B. Lama and Shri B.B. Thapa as well as preparation of recovery statement and deduction accordingly in respect of Shri P.K. Dey and Shri Md. Tasin.

Reminder-1
Office of the GE (A)
Shillong
Elephant Falls Camp
Non-lyer Post
Shillong-9

1003/C/APA/1986/584/EIR
AGE/E/M (F) Shillong

FITMENT OF INDUSTRIAL WORKERS OF MEST IN THE PAY
SCALES RECOMMENDED BY THE THIRD PAY COMMISSION
OF MPA TO SKILLED PAY SCALES.

1. Reference this Office Letter No. 1003/C/BPR/1986/
490 dated 7 Aug '91
2. Please intimate the voucher No. and date under
which over payment was recovered from aforesaid individuals.

Sd/- D.K.Sen
AGE 'T'
for GE (AP) Shillong

Annexure-7

Reminder No.2

Office of the GE(AP) Shillong
Elephant Falls Camp
Nonglyer Post
Shillong-793009

1003/C/MPA/1986/505/EIR.

AGE/E/H/ (AP) Shillong.

FITMENT OF INDUSTRIAL WORKERS OF THE MES PAY
PAY SCALES RECOMMENDED BY THE THIRD PAY COMMISSION
OF MPA TO SKI LLED PAY SCALES.

1. Reference this office letter No. 1003/C/MPA/1986/
490/EIR dated 7.8.91 and 1003/C/MPA/1985/504/EIR dated
2.4.92.
2. Please intimate the present position of the case
as the higher authorities is pressing hard of the same.

Sd/- D.K.Sen

(D.K.SEN)
AGE (T^E ch)

for GE(AP) Shillong\$

To

The Engineer-in-Chief
Army HQ,
DH 8, New Delhi

Subject : Implementation of the Judgement of Central Administrative Tribunal passed by Hon'ble Central Administrative Tribunal Calcutta in Original Application No. 796 of 1987 Hon'ble ~~XXXbunx~~ Central Administrative Tribunal, Guwahati in O.A. No. 144/89, 156/89 and O. A. No. 70 of 1997.

(Through Proper Channel)

Sir,

With due respect and humble submission I have the honour to bring to your kind notice the following facts for favour of your sympathetic consideration and favourable orders :-

1. That Sir, I was enrolled in G.E., Shillong (MES) sometime in the year 1966.
2. That I was promoted to the post of M.P.A. vide P.T.No. 36 dt. 5.9.83
3. That my pay was fixed at Rs. 260/- p.m. in the pay scale of Rs. 260-400 vide PTO No. 50 dated 12.12.88 and I was paid in the scale till June 1988.
4. That unfortunately my promotion to the post of M.P.A. was termed as a promotion of Mate (MPA) under PTO No. 47 dt. 24.11.86 and my pay was fixed in the pay scale of Rs. 210-290 vide PTO No. 47 dt. 24.11.86.
5. That thereafter as sum of Rs. 3320/- was recovered/ from my pay bills.
6. That ~~my~~ order and judgement passed by the Hon'ble Central Administrative Tribunal, Calcutta and Guwahati as cited above under reference, the Hon'ble Tribunal has directed

to Govt. to give all the benefits to the applicants, who had approached the Hon'ble Tribunal for redressal of their grievances when their promotion was termed as Mate (MPA) and their pay was refixed in the lower scale of Rs. 210 to 290. The Hon'ble Tribunal even went to the extreme of directing the Government to refund the recoveries made from some of the applicant.

7. That as I am one of the victim whose promotion was designated as Mate (MPA), pay fixed in the scale of Rs. 210 to 290 and recoveries made. I pray that in pursuance of the order of the Hon'ble Tribunal may case be considered all the benefits due to me be given to me and the recoveries already made in refunded to me.

8. That I am filing this instant position most bonafide and in the interest of justice as the law of the land does not encourage discrimination.

In view of the above it is most humbly prayed that your honour would be graciously please to consider my prayer most sympathetically and for this act of kindness shall ever pray.

Thanking you,

Yours faithfully,

Sd/-

Date : 3.7.98

M. Singh MES No.213501
FGM, E/M Section
G.E. Shillong

15
Annexure-8

To
The Engineer-in-Chief
Army HQ,
DH 8 New Delhi

Subject : Implementation of the judgement of Central Administrative Tribunal passed by Hon'ble Central Administrative Tribunal Calcutta in Original Application No. 796 of 1987 Hon'ble Central Administrative Tribunal Gauhati in O.A. No. 144/89, 156/89 and O.A. No. 70 1997.

(Through proper channel).

Sir,

With due respect and humble submission I have the honour to bring to your kind notice the following facts for favour of your sympathetic consideration and favourable orders:

- (1) That Sir, I was enrolled in G.E. Shillong (M. E. S) sometime in the year 1972.
- (2) That I was promoted to the post of M.P.A. vide P.T.O. No. 36 dated 5.9.83
- (3) That my pay was fixed at Rs. 260/- p.m. in the pay scale of Rs. 260-400 vide PTO No. 50 dt. 12.12.83 and I was paid in the scale till June 1988
- (4) That unfortunately my promotion to the post of MPA was termed as a promotion of Mate (MPA) under PTO No. 47 dt. 24.11.86 and my pay was fixed in the pay scale of Rs. 210-290/- vide P.T.O. No. 47 dated 24.11.86.
- (5) That thereafter a sum of Rs. 3430 was recovered/received from my pay bills.
- (6) That my order and judgements passed by the Hon'ble Central Administrative Tribunal, Calcutta and Gauhati as cited above under reference, the Hon'ble Tribunal has directed the Govt. to give all the benefits to the applicants, who had approached the Hon'ble Tribunal for redressal of their grievances when their promotion was termed as Mate (MPA) and their

Contd.

pay was refixed in the lower scale of Rs. 210/- to 290/-. The Hon'ble Tribunal even went to the extreme of directing the Government to refund the recoveries made from some of the applicant.

8. That as I am one of the victim whose promotion was designated as Mate (MPA), pay fixed in scale of Rs. 210 to Rs. 290 and recoveries made. I pray that in pursuance of the order of the Hon'ble Tribunal my case be considered and all the benefits due to me be given to me and the recoveries already made be refunded to me.

9. That I am filing this instant petition most bona fide and in the interest of justice as the law of the land does not encourage discrimination.

In view of the above it is most humbly prayed that Your Honour would be graciously pleased to consider my prayer most sympathetically and for this act of kindness shall ever pray.

Thanking you,

Yours faithfully,

Sd/-

Date : 3 . 7 . 98

Sahab Md. Ali
MES No. 229167, FGM,
E/M Section
GE Shillong

Annexure-9

MEGHALAYA MES CIVILIAN WORKERS' UNION SHILLONG
(REGISTERED AND AFFILIATED WITH A DEP).

C/o Garrison Engineer Shillong Division, Shillong-2

Registration No. 42
Affiliation No. 121

Ref No. MHU/09/Corr/96 Date 26th June 1996

To

The Commander Works Engineers,
Spread Eagle Falls Camp
Shillong-793011

Subject : REGULARISATION OF PROMOTION OF MPAs PROMOTED FROM
MAZDOOR, CHOWKIDARS and SAFAIWALAS.

Dear Sir,

1. The following documents in connection with regularisation of promotion of MPAs promoted from Mazdoors, Chowkidars and Safaiwalas are forwarded herewith for favour of your perusal and immediate implementation please.

- (a) Photostat copy of CAT Guwahati Bench judgement dated 29.6.90.
- (b) Review petition filed by department dated 10.9.90 (Photostat).
- (c) Judgement on review petition of CAT Guwahati Bench dated 20.11.90 (Photostat).
- (d) Photostat copy of E-in-C's branch letter No. 902370/3180/EIC(3) dated 22 Mar. '91.
- (e) Photostat copy of CWE Guwahati letter No. 1016/Court/122/RINB dated 01 Apr. 91.
- (f) Copy of CAT Ernakulam Bench Judgement dt. 15 Jan 1992.

2. It would be seen from above judgements that MPAs promoted from Mazdoors, Chowkidars and Safaiwalas are entitled benefit of pay scale of Rs. 260-400 (now 950-1500) from the date of their original promotion as MPAs. Further applicability of Tribunals judgement to be extended to all similarly placed individuals by the department.

3. I would, therefore, request you to kindly implement the judgement within one month of receipt of this letter and further a discussion between you and reps of this Union may be arranged immediately to sort out the matter amicably.

4. Thanking you and with regards,

Copy to

- 1. GE EC, Calcutta, 2. CE KE
- 3. All GEs 4. All Jt. Secy.

Yours faithfully,

Sd/-

(K.K. MUKHERJEE)
General Secretary

Annexure-10

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

Original Application No. 144 (G)/1989 & 196 (G)/1989

Date of decision : The day of 29th June 1990

1. Shri Parasuram Deka & Another

M.E.S. No. 225415 working as Pump House Operator
Under Asstt. Garrison Engineer, Rangiya, Posted
at Changsari

...Petitioner

-versus-

i. Union of India (Through Headquarters Chief Engineer,
Eastern Command, Fort Williams, Calcutta-21, West
Bengal).

ii. Commander, Works Engineer (Indeep), MES, Rangiya, Assam.

...Respondents

For the Applicant : Mr. J.L. Sarkar, Advocate.

For the Respondents : Mr. S. Ali, Sr. C.G.S.C.
Mr. G. Sharma, Addl.CGSC.

2. Shriopen Chandra Kakoti, & Others
Son of Sri Kandra Chandra Kakoti
C/o GE, Narengi, P.O. Satgaon,
Guwahati-27

...Petitioners

-versus-

i. Commanders Works Engineer, G.E., Narengi
P.O. Satgaon, Guwahati-27.

ii. Chief Engineer, H.Q. Eastern Command, Fort William,
Calcutta-27.

iii. Engineer in Chief, Army Headquarters, Engineer-in-
Chief's Branch DHQ, P.O. New Delhi.

iv. Garrison Engineer, Narangi Division, P.O. Satgaon,
Guwahati-781027.

v. Assistant Garrison Engineer, Narengi Division, P.O.
Guwahati-27-

vi. Union of India, Represented by Engineer-in-Chief, Army
Headquarters, DHQ, New Delhi-110011.

...Respondents

Annexure-10 (Contd)

For the Applicant

: Mr. B. Banerjee, Advocate
Mr. A. Dasgupta, Advocate

For the Respondent

: Mr. G. Sharma, Addl.C.G.S.C.

C O R A M :

THE HON'BLE SHRI K.P. ACHARYYA, VICE-CHAIRMAN

AND

HON'BLE SHRI J.C. ROY, ADMINISTRATIVE MEMBER.

1. Whether the reporters of local Papers may be allowed to see the Judgement?
2. To be referred to the Reporters or not? Yes
3. Whether Their Lordships wish to see the fair copy of the Judgement?

JUDGEMENT

J.C.ROY Since the facts and law involved in the two cases are similar, we are disposing of both the cases by the following common order.

2. In O.A. No. 144/89 the applicants are Shri Parasuram Deka & another, in O.A. 196/89 the applicants are Shri Upen Chandra Kakati and three others. The applicants were initially unskilled Group 'D' workers like Mazdoor, Safaiwala etc. of MES working in the Establishment of Assistant Garrison Engineer Rangiya, in the case of the first group of applicants and under Garrison Engineer Narengi in the case of second Group of applicants. All of them qualified in trade test for promotion and were promoted to the skilled grade of Motor Pump Attendant (MPA for short) by orders dated 28.8.1984 and 8.7.1984 respectively. The scale of pay of MPA in the promotion orders are shown as Rs. 260/- to 400/- in the case of both the group of the applicants. Although they were working at Rangiya and Narengi, both of these establishments of MES is under the control of Commander Works Engineer, Guwahati (CWE for short). In 1987, however, the terms and conditions of their appointment to the promotional post were changed with retrospective effect. All the applicants were downgraded to the posts of Mate (MPA) bearing the pay scale of Rs. 210-190 from the date of their first promotion in July and August, 1984. They were however promoted to MPA on the scale of Rs. 260/- to 400/- after they completed three years as Mate (MPA) in the lower scale. These orders were issued in 1987 and in 1989. By this time the scale of pay of the applicant were altered to Rs. 800-1150/- and

Contd..

and Rs. 950-1500/- respectively. The MES authorities not only downgraded the applicants from MPA to Mate (MPA) with retrospective effect but also ordered recovery of the amounts of pay & allowances drawn by them in excess of the lower scale of pay beginning from 1984. The order of recovery, however, was stayed by an interim order of this Tribunal at the admission stage.

3. On behalf of the respondents Col K.P.Singh, CWE filed the written reply. None of the facts outlined in the previous paragraph were disputed in this written statement. It was stated that the category of MPA was placed in the skilled grade with the pay scale of Rs.260-400/- by an order of Army Headquarters dt. 20.5.1983. But by the subsequent order dated 20.12.1983 the Army Headquarters ordered that unskilled Group D employees who passed the trade test for MPA were not eligible for promotion to the skilled grade directly. An intermediate stage in semi skilled grade called Mate (MPA) was created which served as the feeder grade for the skilled categories. In October 1985 further clarifications were issued regarding promotion to MPA cadre. In consequence of these, the respondents submits, there was some room for do about now Group 'D' employees were to be promoted to the MPA grade. Consequently the orders issued in July and August 1984 when the applicants were first promoted, erroneously showed them promoted to the skilled grade of MPA directly. Clear instructions were issued on 10.11.1986 by the Headquarters, Eastern Command (Annexure-6) wherein the higher ME authorities order that wherever this error was

Contd..

made it was to be rectified by taking the following measures (a) that trade tested group 'D' employees were to be brought first on the semi-skilled grade of Mate (MPA) in the scale of Rs. 210-290/- and (b) that the excess among paid to such promoted employees on account of wrong promotion should be recovered. The respondents argued that since the error was administrative in nature it was rectified. There was no need to issue ~~khukhak~~ either a show cause notice or giving any opportunity for explaining their cases to the applicants. It is further stated that the recovery of excess payment @ Rs. 100/- p.m. is a very small amount and within the means of the aforesaid parties.

4. We heard Mr. J.L. Sarkar the learned counsel for the petitioners in O.A. No. 144/89 and Mr. S. Ali, Sr. Standing counsel for the Central Government assisted by Mr. G. Sharma the learned Standing counsel, in O.A. No. 196/89, we here Mr. A. Dastupta the learned counsel for the petitioners and Mr. G. Sharma the impugned order of the unilateral downgradation of the rank and fixation in the lower scale on the ground of natural justice. They also challenged the order of recovery from the pay of the applicants after the lapse of three or even four years on the ground that this is against the provisions of law. They pointed out that this Tribunal has consistently disallowed such recoveries even when the excess payment was made due to 'bona fide mistake on the part of the authorities. In these cases, the learned counsel contended, that the pay was correctly fixed on promotion and the question of downgraded petitioners status and giving them lower emoluments after

Contd...

the lapse of three or four years were unwarranted and unlawful. The learned standing counsels on the other hand maintained at the time of bearing first promotion to the applicants, the rules of promotion from unskilled grade of the ME^D to the various higher grades of semi-skilled grade and skilled grades were at the stage of formulation at the policy level. The applicants were directly promoted from unsilled workers to skilled workers without passing through the feeder grade of semi skilled wrker as a result of mistake on the part of the local controlling authority. Such mistakes, the learned standing counsel contended, can be rectified. The standing counsels' case was that the fluid situation obtaining between 1983 to 1986 was finally settled by the Engineer-in-Chief. Headquarters Eastern Command's letter dated 10.11.1986 (Annexure R-6 in O.A. No. 144/89). The opposite parties' case, therefore, is that no illegality was committed by the subsequent order as the applicants were required to pass through the feeder grade of Mate (MPA) before promotion to the grade of MPA.

5. We are not convinced by the argument of the learned standing counsels that an order passed erroneously due to administrative mistake can be rectified unilaterally in pursuance of public policy. This is particularly so because in this case the applicants were not even given an opportunity to state their case. In the case of K.I.Sephard V. Union of India, 1988(I) SLJ 105, the Hon'ble Supreme Court considered and expressed their views on the circumstances where the principle of natural justice must be applied. The Court concluded that these principles may not have

Annexure-10 (Contd.)

universal application when Government exercises its legislative power, but at the same time held that for all administrative section of the Government the principle of natural justice have to be fully observed. My Lord Ranganath Mishra, J speaking for the Bench in paragraph 13 of the judgement stated as follows :

"Fair play is a part of the public policy and is a guarantee for justice to citizens. In our system of Rule of law every social agency conferred with power is required to set fairly so that social section would be just and there would be furtherness of the well-being of citizens. The rules of natural justice have developed with the growth of civilisation and the content thereof is often considered as a proper measure of the level of civilisation and Rule of law prevailing in the community. Man within the social frame has struggled for centuries to bring into the community the concept of fairness and it has taken scores of years for the rules of natural justice to conceptually enter into the field of social activities."

6. Even in the case of an undisputed administrative error like wrong fixation of pay giving higher benefits to and employees, when this is sought to be rectified after the lapse of years, such action of the employer was not allowed consistently by this Tribunal. For example, in the case of Nilkantha Shah Vs. Union of India & Ors., 1987(3), SLJ (CAT) 306, the Calcutta Bench of the Tribunal held that over payment on account of pay & allowances wrongly fixed by the employer and not caused by the employees mistake cannot be recovered after long years. Again in the case of C.S. Bedi V. Union of India reported in AIR 1989(2) 510 the Principal Bench of the Tribunal held that rectification of an order resulting in adverse civil consequence to an employee cannot be done without issuing him a show cause

Contd..

notice. We are in full agreement with this wholesome principle laid down by this Tribunal and find that the impugned orders of subsequently down grading the applicants from MPA to Mate (MPA) are reducing their pay scale cannot be sustained. This is particularly so because the consequential excess payment was ordered to be recovered after 3 years or more. We quote below a portion of para 7 of the Judgement in the case of Nilkantha Shah, V. Union of India delivered by the Division Bench of the Calcutta Bench on 11.2.1987.

"When the applicant was given the benefit of revised pay, he was not aware that he would have to pay back the excess amount drawn and be spent the amount according to the pay scale that he enjoyed. Any deduction at this late stage definitely causes hardship to the applicant. It is also quite clear that the applicant was not responsible or for the non-detection of the mistake of the Department for a long seven years."

In that case recovery of the amount of over payment of more than Rs. 13.000 due to wrong fixation of pay gave rise to the cause of action. The government ordered recovery of 50% of the amount after waiving the remaining amount on compassionate ground. But this recovery was not allowed by this judgement. The facts in so far as the recovery in these cases are concerned, are not disimilar from Shah's case. The only difference is that the opposite parties has not been able to establish that the higher grade and pay scale given to the applicants ontheir promotion in 1984 was given only due to mistake only. In our opinion none of the various orders of Army Headquarters onwhich the respondents rely can have retrospective effect.

Contd...

None of them explicitly even says that they will take effect from a retrospective date. The clarification or direction given by the Headquarter, Eastern Command in its letter dated 10.11.1986 cannot be sustained. Even if there were compelling circumstances why the order should have retrospective effect, the affected person should at least have been given opportunity of explaining his case. Since this opportunity was not given the applicants were denied natural justice.

7. In the result both the applications succeed. We direct that all the applicants shall be given the benefit of the scale of pay Motor Pump Attendant's scale of pay Rs. 950-1500 from the date of their first promotion in 1984 and shall be allowed to draw all allowances and increments in that scale. We further direct the opposite parties that no recovery on account of over payment of pay and allowances of the applicants due to re-fixation of pay from 1984 onwards shall be made. If any recovery on this account has already been made the amount shall be refunded to the applicants. The above orders shall be implemented by the opposite parties as early as possible and in no case with a period exceeding 90 days from the date of the receipt of this order. There will be no order as to costs.

I agree
Sd/- K.P. Acharya
29.6.90

Sd/- J.C.Roy
29.6.90
Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No. 66 of 1990

Misc. Application No. 66 of 1990

(O.A. No. 144 (G)/89)

Date of decision : The 30th day of November, 1990

1. The Union of India represented by the Chief Engineer, Eastern Command, Fort William, Calcutta.
2. Commander Works Engineers, AT Road, Santipur, Guwahati-781009
3. Commander Works Engineers, GE, Narengi, P.O. Satgaon, Guwahati-27.
4. Garrison Engineer, Narengi
5. Assistant Garrison Engineer, Narengi Division, P.O. Satgaon, Guwahati-27.
6. Assistant Garrison Engineer, ~~Narengi Division~~, ~~ExxxSatgaon~~ (Indeep), MPS, Rangiya Assam.

...Applicants

-versus-

1. Shri Parasuram Deka and Another
MES No. 225415 working in Pump House
Operator under Applicant No.6
2. Shri Upen Chandra Kakoti and others,
Son of Shri Kandra Chandra Kakoti
working in the office of the applicant No.4,

...Respondents

For the Applicants : Mr. G. Sarma, Addl. C.G.S.C.
For the Respondents : Mr. J.L. Sarkar, Advocate.

C O R A M

THE HON'BLE SHRI K.P. ACHARYA, VICE-CHAIRMAN.
THE HON'BLE MISS USHA SAVAPA, ADMINISTRATIVE MEMBER.

1. Whether reporters of local newspapers may be allowed to see the judgement?
2. To be referred to the reporters or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement?

Annexure-11 (Contd.)

JUDGEMENT

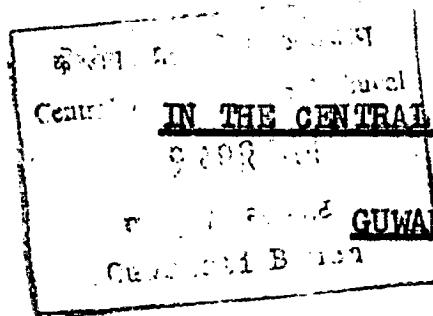
ACHARYA J.

This common judgement will govern both the cases mentioned above, Review Application No. 12/90 arises out of the judgement passed by this Bench in O.A. No. 144/89 and O.A. No. 196/89 disposed of on 29.6.90

2. Shortly state, the case of the petitioners in both the original applications was that the petitioners were initially unskilled Group 'D' workers like Mazdoors, Safaiwalas, etc. of MES, working in the Establishment of Assistant Garrison Engineer, Rangiya. All of them qualified in the Trade Test for promotion and were promoted to the scale of Motor Pump Attendant by orders dated 27.8.1984 and 8.7.1984 respectively. The scale of pay of Motor Pump Attendant in the promotional post as shown in the orders was Rs. 260/- to 400/-. In 1987, however the terms and conditions of their appointment to the promotional post were changed with retrospective effect. All the petitioners were down graded to the post of Motor Pump Attendant bearing the scale of pay of Rs. 210 to 290/- from July and August, 1984. Being aggrieved by this order the petitioners invoked the jurisdiction of the Tribunal by filing applications under Section 19 of the Administrative Tribunals Act, 1985, and at hearing counsel for both sides in both the applications this Bench ordered as follows :

"In the result both the applications succeed. We direct that all the applicants shall be given the benefit of the scale of pay of Motor Pump Attendant namely Rs. 950 to 1500/- from the date of the first promotion in 1984 and shall be allowed to draw allowances and increments in that scale."

Contd..



Fee Chk
9/4/2001
(A. DEB ROY)
Sr. C. G. S. C.
C. A. T., Guwahati Bench

OA NO 50/2001

Shri M Singh & Others

..... Applicants

- Versus -

Union of India and Others

..... Respondents

- AND -

In the matter of

Written statement submitted by

Respondents Nos 1,2,3,4 & 5

Contd 2/2

The humble respondents beg to submit their written statements as follows :-

1. That with regard to the statement made in Paragraph 1 to 3 of the application, it is stated that the same are matters of record, save what appears from record; the respondents do not admit anything.
2. That with regard to the statements made in Paragraphs 4.1, 4.2, 4.3, 4.4 of the application the respondents beg to state that at the time of promotion of the applicant to the semi skilled grade, the notified recruitment rules for the post of Motor Pump Attendant (now Fitter General Mechanic (Skilled) only provided for semi skilled grade. Therefore they are entitled for semi skilled grade, at the time of their promotion. In this connection it is stated that based on the recommendation of 3rd Central Pay Commission, an expert classification was set up in 1974 for proper classification of all industrial employees in Defence Establishment including Military Engineer Service. Based on the reports of expert classification Committee, Min of Def issued a fitment order vide No 1 (2)/80/D(ECC/IC) dated 11 May 83, and the effective date of fitment was given wef 16 Oct 81, and the classification of Industrial employees in MES has been classified as under :-

<u>Category</u>	<u>Scale of Pay</u>
Unskilled	196-3-220-EB-232
Semi-skilled	210-4-226-EB-4-250-EB-5-290
Skilled	260-6-296-EB-6-326-8-366 EB-8-390-10-400

As a result of fitment the scale of Motor Pump Attendant which carried Semi-Skilled before fitment has now been upgraded to skilled pay scale of Rs. 260-400 and as such feeder grade in the semi skilled grade of Rs.210-290 required to be identified which has been done as Mate (Motor Pump Attendant) vide E-in-C's Branch, Army Headquarters, New Delhi clarification No 36276/89/ELC dated 20 Dec 83. As per recruitment rules and further recommendation of Expert Classification Committee and as such their next line of promotion can be only semi skilled category and not directly to skilled grade as claimed by the applicant.

3. That with regard to statement made in para 4.5 of the application it is submitted that in accordance with Govt of India, Min of Defence letter No 1 (2)/80/D(ECC)/IC dated 11.3.83, the post of MPA has been assigned the scale of pay of Rs. 260-400 in the category of skilled worker. It followed that the feeder category to the post of Category of MPA is to be semi skilled in the scale of pay of Rs.210-290. However, the case has further taken up with E-in-C's Branch and it was clarified by E-in-C's Branch that the promotion of Mazdoor/Chowkidar and Safaiwala to the post of MPA in the scale of Rs.260-400

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after the issue of Govt letter dated 11 May 98 is highly irregular and they should be brought down to the scale of Mate (MPA) in the pay scale of Rs.210-290, in this case individual was promoted to the post of MPA wef 05.9.88.

4. That with regard to Para 4.6,4.7 and 4.8 of the application it is submitted that the applicants were promoted from Chowkidar/ Mazdoor in terms of E-in-C's Branch Policy letter No 90270/89/E1C dated 20 Dec 1983 and subsequently reverted as per E-in-C's Branch letter No 90270/89/E1C dated 22 Oct 86.

In the instant case although the judgement was pronounced in favour of certain individuals who were applicant of the case only and for which Govt sanction was accorded to give the benefits to the applicants only and not to all. Thus the present can not be given the benefit as claimed. The category was made in accordance with instruction issued by CE HQ Eastern Comd, Calcutta vide their letter No 131950/55/237/Engrs/E1R(C) dated 10 Nov 86.

5. That with regard to Para 4.9,4.10, 4.11 of the application, it is submitted that judgement of QA No 70 of 97 was sent to Min of Defence for asking whether the judgement can be implemented or not. Min of Defence vide their letter dated 26 Dec 87 has directed to implement the judgement. But in the instant case the present applicant was not as applicant

of OA No 70/97 hence can not claim any benefit.

6. That with regard to Para 4.12 of the application the respondents beg to offer no comments.

7. That with regard to the Para 5.1 to 5.14 the respondents beg to state that in view of the facts made in the written statement the applicant's grounds are baseless and thus the applications is liable to be dismissed.

8. That with regard to Para 6 and 7 of the application the respondents beg to offer no comments.

9. That with regard to the contents made in Para 8 of the application, the respondents maintain that in view of the facts stated in this written statement the applicants have no merit and deserve no relief and as such the application is liable to be dismissed.

10. That with regard to the contents made in Para 9 of the application, the respondents beg to state that in view of the facts stated in this written statement, the applicants have no merit to get interim order.

VERIFICATION

I, Shri Aseem Kumar, AEE, AGE(E/M) Shillong, do hereby solemnly declare that the statements made in Para 1,2,4 & 5 are true to my knowledge, those made in Para 3,6,7,8,9 and 10 are true to my information and derived from records available and rests are my humble submission before this Hon'ble Tribunal.

And I sign this verification today 04 Apr 2001.

Aseem Kumar

(Aseem Kumar)
AEE
Legal Officer
for Garrison Engineer