

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Form No. 12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 208/06
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) D. Boonjen (son)

Respondant(S) U. O. I. (son)

Advocate for the Applicant(S) Rajib B. Borpujari

Advocate for the Respondant(S) Case

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide I.P.O./PB No. <u>264/31/94/29</u> Dated <u>27.2.06</u></p> <p><u>Meeth</u> Dy. Registrar</p> <p><u>Steps taken with envelope.</u></p> <p><u>No prayer for single application as per Rule 4(5)(a) of the CAT (procedure) Rules 1989.</u></p> <p><u>Joint application has not been filed.</u></p> <p><u>4.5.06</u></p>	<p><u>21.8.06</u></p> <p><u>mb</u></p> <p><u>05.09.2006</u></p> <p><u>18/9/8</u> <u>CO.</u></p>	<p>Mr. Rajib Borpujari learned counsel for the applicant wants to file joint application & together Post the matter on 5.9.06.</p> <p><u>Vice-Chairman</u></p> <p>Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.</p> <p>Heard learned Counsel for the parties. The Application is disposed of at the admission stage itself in terms of the order passed in separate sheets. No order as to costs.</p> <p><u>Vice-Chairman</u></p> <p><u>13.9.06</u> <u>for Case</u></p>

✓
13.9.06

Certified copy

has been collected
by the L/Advocate
for the applicant
and a copy of the
same handed over
to the R.C.S.C.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

208 of 2006

O.A. No.

05.09.2006

DATE OF DECISION

D. Bomjen & Ors.

Applicant/s

Mr R. Borpujari

Advocate for the
Applicant/s.

- Versus -

Union of India & Others

Respondent/s

Mr G. Baishya, Sr. C.G.S.C. Counsel

Advocate for the
Respondents

CORAM

THE HON'BLE SRI K.V. SACHIDANANDAN, VICE CHAIRMAN.
THE HON'BLE

1. Whether reporters of local newspapers
may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest
Being compiled at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy
of the Judgment ? Yes/No

Vice-Chairman

6/9/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 208 of 2006.

Date of Order : This the 5th day of September, 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

1. Sri Dagi Bomjen
Son of Late Y. Bomjen
Resident of village Beye,
Working as SAF/FIP, Laju,
C/o - A.S.C., S.B., Khonsa
Arunachal Pradesh.
2. Sri Langchin Bowam
Son of Late Lowakbow
Resident of village Minu
Working as AFO/FIP, Laju
C/o - A.S.C., S.B., Khonsa
Arunachal Pradesh.
3. Sri Rahwang Lowang
Son of Late Wangto Lowang
Resident of village Kethi
Working as SFA
C/o - A.S.C., S.B., Khonsa
Arunachal Pradesh.
4. Langmai Wangshu
Son of Late Chemye Wangshu
Resident of village Pagchao
Working as SFA/FIP Pagchao
C/o - A.S.C., S.B., Khonsa
Arunachal Pradesh.
5. Bhagirath Jaishi
Son of late D.P. Jaishi
Resident and working as SFA/FIP,
Kibitho, C/o - A.S.C., S.B. Tezu,
Arunachal Pradesh.
6. Rinchin Dorjee
Son of Late D. Arjee
Resident of village Tezu
Working as AFO/FIP, Chaglogam
C/O A.S.C., S.B. Tezu
Arunachal Pradesh.

All are working in the office of the Deputy Commissioner, S.B. Dibrugarh,
Assam.

... Applicants

By Advocate Mr R. Borpujari.

- Versus -



1. Union of India
Represented by the Secretary (R),
Cabinet Secretariat,
7-Bikaner House (Annexe),
Shahjahan Road, New Delhi - 110 001.
2. The Special Secretary - I
Cabinet Secretariat,
7-Bikaner House (Annexe),
Shahjahan Road, New Delhi - 110 001.
3. The Joint Secretariat (Pers.)
Cabinet Secretariat,
7-Bikaner House (Annexe),
Shahjahan Road, New Delhi - 110 001.
4. The Under Secretary (Pers. IV)
Cabinet Secretariat,
7-Bikaner House (Annexe),
Shahjahan Road, New Delhi - 110 001.
5. The Deputy Commissioner
Special Bureau (S.B.)
Dibrugarh, Assam.

... Respondents.


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

.....

ORDER (ORAL)

K.V. SACHIDANANDAN, (V.C.)

There are six Applicants in this Application and they joined in service in the Department of Special Bureau, under the wrings of Research and Analysis Wing, Ministry of Cabinet Secretariat, Government of India, New Delhi against the posts of Security Guard and presently, they are working in the posts of Non-Matriculate Senior Field Assistant (SFA for short) in the office of the Deputy Commissioner, S.B., Dibrugarh, Assam. The Applicants are entitled to the pay scale of Rs. 225-308/- with effect from 01.01.1973 as recommended by the Third Pay Commission as per their seniority and designation, which is meant for Matriculate Field Assistants. But, because of discriminatory pay scale vis-à-vis Non-Matriculate and Matriculate Field Assistants in the department of Special Bureau, Dibrugarh, Assam, the Applicants' fundamental rights as guaranteed under Articles 14, 16 and 21 of the Constitution of India



have been violated. The Central Administrative Tribunal, Cuttack Bench vide order dated 20.02.1992 passed in O.A. No. 57 of 1986 held that the Applicants therein, who belonged to non-matriculate cadre are entitled to the pay scale given to matriculate cadre. The said order dated 20.02.1992 was subsequently upheld by the Hon'ble Apex Court vide order dated 24.11.1998 passed in Civil Appeal No. 3567/1993, which was also followed by the Central Administrative Tribunal, Principal Bench in O.A. Nos. 1107 of 2000, 1223 of 2000 and 130 of 2001 as well as in O.A. No. 3382 of 2001. The Government Memorandum dated 17.06.2004 issued by the Under Secretary (Pers. IV), Government of India, Cabinet Secretariat, New Delhi, the Applicant No. 1 was informed that the case regarding extension of benefit of higher pay scale to non-matric F. As (GD) on the basis of CAT judgment was referred to the Ministry of Finance, who has intimated that as per general policy of the government the benefit cannot be allowed to non-petitioner. Hence, this Application seeking the following reliefs: -

- "a) Declaration that the applicants are entitled to the benefits of higher pay scale with all consequential benefits alongwith arrears and interest thereof at parity with Matriculate Field Assistants holding similar posts under RAW, in terms of the Order dated 20.02.2002 passed by the Hon'ble Central Administrative Tribunal, Cuttack Bench in O.A. No. 57 of 1986, which was subsequently upheld by the Hon'ble Apex Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 and which was also affirmed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 06.06.2002 passed in O.A. No. 3381/2001.
- b) Direction to the respondents to extend the benefits of the aforesaid Orders passed by the Hon'ble Central Administrative Tribunals and the Hon'ble Supreme Court, to the applicants in respect of granting them the pay scale of Rs. 225-308 with effect from 1.1.1973 as recommended by the Third Pay Commission which is meant for Matriculate Field Assistants.

- c) Costs of the application.
- d) Any other relief or reliefs to which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper."

2. Heard Mr R. Borpujari, learned Counsel for the Applicants and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents. Mr Borpujari, learned Counsel for the Applicants has brought to my notice the memorandum dated 17.06.2004 (Annexure - 3) issued by the Government of India, Cabinet Secretariat. The said memorandum is reproduced below for better illustration:

"Please refer to your Memo No. /187/99/DBR (Estt.)-3387 forwarding therewith a representation in respect of Shri D. Bomjen, SFA (GD) regarding grant of matric scale to him.

2. The case regarding extension of benefit of higher pay scale to non-matric FAs(GD) on the basis of CAT Judgment was referred to Ministry of Finance who have intimated that as per general policy of the government the benefit cannot be allowed to non-petitioner. Hence, Shri D. Bomjen, SFA (GD) shall have to approach the CAT for grant of higher pay scale. He may also be informed that permission of the department is not required for approaching the CAT."

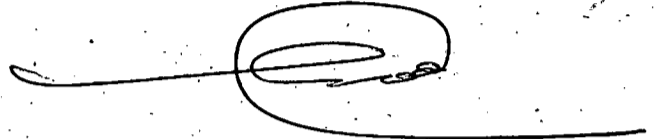
The learned Counsel for the Applicants submitted that he will be satisfied if a direction is given to the Respondent No. 4 or any other Competent Authority to consider the case of the Applicants in case they have filed a detailed representation within a time frame on the strength of the Judgment that has been rendered by various Tribunals as stated above. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents submitted that he has no objection if such a course is adopted.

3. In the interest of justice, this Tribunal directs the Applicants to submit a comprehensive representation before the Respondent No. 4 alongwith a copy of the Original Application and all documents within three weeks from the date of receipt of copy of this order. On receipt of such representation, the Respondent No. 4 or any other Competent Authority shall consider and dispose of the same within three months

from the date of receipt of the representation untrammelled by the statement made in the memorandum that "the benefit cannot be allowed to non-petitioner." Hope and trust the Respondent will consider the issue with open mind and all transparency that is expected of administrative function and dispose of the representation.

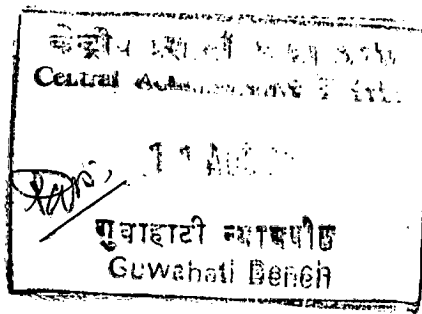
The O.A. is disposed of as above at the admission stage itself.

No order as to costs.



(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O. A. No. 208 /2006

Sri D. Bomjen and others Applicants

-Versus-

Union of India and others Respondents

I N D E X

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Filed by

R. Borpujari
11/8/06
(Advocate)

(i)

SYNOPSIS & LIST OF DATES

The applicants who joined in the services of the Department of Special Bureau, under the wings of Research and Analysis Wing (RAW), Ministry of Cabinet Secretariat, Govt. of India, New Delhi, against posts of Security Guard are presently working in the posts of Non-Matriculate Senior Field Assistant (SFA) in the office of the Deputy Commissioner, S.B., Dibrugarh, Assam.

Eventually, the Hon'ble Central Administrative Tribunal, Cuttack Bench, vide Order dated 20.2.2002 passed in O.A. 57/1986 held that the applicants therein who belonged to Non-Matriculate Cadre are entitled to the pay scale given to Matriculate Cadre. The said Order dated 20.2.2002 was subsequently upheld by the Hon'ble Apex Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 and which was also affirmed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 6.6.2002 passed in O.A. No..3382/2001.

Vide Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004, (ANNEXURE-3) issued by the Under Secretary (Pers.IV), Govt. of India, Cabinet Secretariat, New Delhi, the applicant No. 1 was informed that, the case regarding extension of benefit of higher pay scale to non-metric F.A.s, (GD) on the basis of CAT Judgment was referred to Ministry of Finance who have intimated that as per general policy of the government the benefit cannot be allowed to non-petitioner. Hence, the said applicant shall have to approach the CAT for grant of higher pay scale.

This application has arisen out of the aforesaid Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004, (ANNEXURE-3).

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(ii)

- 6.2.1970 - Applicant No. 6 joined in the services of RAW.
- 16.7.1970 - Applicant No. 2 joined in the services of RAW.
- 20.8.1971 - Applicant No. 5 joined in the services of RAW.
- 29.1.1974 - Applicant No. 4 joined in the services of RAW.
- 1.7.1974 - Applicant No. 3 joined in the services of RAW.
- 9.9.1974 - Applicant No. 1 joined in the services of RAW.
- 20.2.2002 - The Hon'ble Central Administrative Tribunal, Cuttuck Bench, vide Order dated 20.2.2002 passed in O.A. 57/1986 held that the applicants therein who belonged to Non-Matriculate Cadre are entitled to the pay scale given to Matriculate Cadre.
- 24.11.98 - The Hon'ble Supreme Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 upheld the aforesaid Order dated 20.2.2002 passed in O.A. 57/1986.
- 18.5.2001
and 6.6.2002
ANNEXURES- 1
and 2 - The Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 6.6.2002 passed in O.A. No. 3382/2001 affirmed the aforesaid Orders passed by the Hon'ble CAT, Cuttuck, and the Hon'ble Supreme Court.
- 17.6.2004
ANNEXURE-3 - Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004.
- 15.2.2005
ANNEXURE-4 - Legal Notice dated 15.2.2005 issued by the applicants through their Advocate under

Pajin
 DASI BOMJEN,
 -
Langchin
 LANGCHIN BOWAM
 -
Rahwang
 RAHWANG LOWANG
 -
Langmai
 LANGMAI WANGSHU
 -
Pajin
 BHAGIRATH JAISHI
 -
Rinchindje
 RINCHIN DORJEE
 13

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O. A. No. 208 /2006

-BETWEEN-

filed by the
 Applicants
 through
 R. Borjoman
 Advocate 11/8/06

1. **SRI DASI BOMJEN**
Son of Late Y. Bomjen
Resident of village Beye,
Working as SAF/FIP, Laju,
C/O A.S.C., S.B., Khonsa,
Arunachal Pradesh.
2. **SRI LANGCHIN BOWAM**
Son of Late Lowakbow
Resident of village Minu,
Working as AFO/FIP, Laju,
C/O A.S.C., S.B., Khonsa,
Arunachal Pradesh.
3. **SRI RAHWANG LOWANG**
Son of Late Wangto Lowang
Resident of village Kethi,
Working as SFA,
C/O A.S.C., S.B., Khonsa,
Arunachal Pradesh.
4. **LANGMAI WANGSHU**
Son of Late Chemye Wangshu
Resident of village Pagchao,
Working as SAF/FIP, Pagchao,
C/O A.S.C., S.B., Khonsa,
Arunachal Pradesh.

Pluribus
 D. G. BOMJEN
Langchin
 LANGCHIN BOMJAM
Pluribus
 RANWAN LOMANG
LA NGMAI
 LANGMAI WANGSU
Bjani
 BHAGIRATH JAISHI
Rinchendorgjee
 RINCHIN DORJEE

-2-

5. **BHAGIRATH JAISHI**

Son of Late D.P. Jaishi
 Residing and working as SFA/FIP,
 Kibitho, C/O A.S.C., S.B., Tezu,
 Arunachal Pradesh.

6. **RINCHIN DORJEE**

Son of Late D. Arjee
 Resident of village Tezu,
 Working as AFO/FIP, Chaglogam,
 C/O A.S.C., S.B., Tezu,
 Arunachal Pradesh.
 All are working in the office of
 the Deputy Commissioner, S.B.,
 Dibrugarh, Assam.

..... APPLICANTS

-VERSUS-

1. **UNION OF INDIA**

Represented by the Secretary (R),
 Cabinet Secretariat,
 7-Bikaner House (Annexe),
 Shahjahan Road, New Delhi-110001.

2. **THE SPECIAL SECRETARY-1**

Cabinet Secretariat,
 7-Bikaner House (Annexe),
 Shahjahan Road, New Delhi-110001.

3. **THE JOINT SECRETARY (PERS.)**

Cabinet Secretariat,
 7-Bikaner House (Annexe),
 Shahjahan Road, New Delhi-110001.

Rajin
 DAGI BOMJEN
 LANGCHIN BONAM
 RANWANG EDWANG
 LANGMA
 LANGNAT WANGSU
 BIRIN
 BHAGIRATH JAYSHI
 Rinehindaje
 RINCHIN BORJEE

-3-

4. THE UNDER SECRETARY (PERS. IV)
Cabinet Secretariat,
7-Bikaner House (Annexe),
Shahjahan Road, New Delhi-110001.
5. THE DEPUTY COMMISSIONER
Special Bureau (S.B.),
Dibrugarh, Assam.

..... RESPONDENTS

DETAILS OF APPLICATION:

1. Particulars of the Order against which the application is made:

This application has arisen out of Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004, issued by the Under Secretary (Pers. IV), Govt. of India, Cabinet Secretariat, New Delhi, whereby the applicant No. 1 was informed that, the case regarding extension of benefit of higher pay scale to non-metric F.As, (GD) on the basis of CAT Judgment was referred to Ministry of Finance who have intimated that as per general policy of the government the benefit cannot be allowed to non-petitioner. Hence, the applicant shall have to approach the CAT for grant of higher pay scale.

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of the Order against which the applicants want redressal is within the jurisdiction of the Tribunal.

3. Limitation:

Dagi Bomjen
Langchin Bowam
Ranwang Lowang
Langmai Wangshu
Bhagirath Jaishi
Rinchin Dorjee

-4-

The applicants declare that the application is within the limitation period prescribed by Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case:

4.1 That the applicants are citizens of India and are permanent residents of Arunachal Pradesh.

4.2 That the applicants joined in the services of the Department of Special Bureau, under the wings of Research and Analysis Wing (RAW), Ministry of Cabinet Secretariat, Govt. of India, New Delhi, against posts of Security Guard and presently the applicants are working in the posts of Non-Matriculate Senior Field Assistant (SFA) in the office of the Deputy Commissioner, S.B., Dibrugarh, Assam. The dates of joining by the applicants in the services as stated above are as follows.

- | | | |
|---------------------|---|------------|
| 1. Sri Dagi Bomjen | - | 9.9.1974. |
| 2. Langchin Bowam | - | 16.7.1970. |
| 3. Ranwang Lowang | - | 1.7.1974. |
| 4. Langmai Wangshu | - | 29.1.1974. |
| 5. Bhagirath Jaishi | - | 20.8.1971. |
| 6. Rinchin Dorjee | - | 6.2.1970. |

4.3 That the applicants beg to state that as per their seniority and designation, they are entitled to the pay scale of Rs. 225-308 with effect from 1.1.1973 as recommended by the Third Pay Commission which is meant for Matriculate Field Assistants.

4.4 That the applicants beg to state that because of the discriminatory pay scale vis-à-vis Non-Matriculate and Matriculate Field Assistants, in the Department of Special

57/10
DAGI BOMJEN
LANGATH BOWAM
RAINWANG LOWANG
LANGMA
LANGNAI WANGSU
BHA GURATH JACHAI
Rinchindjee
RINCHIN DORJEE

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Bureau, Dubrugarh under the wings of Research and Analysis Wing (RAW), Ministry of Cabinet Secretariat, Govt. of India, New Delhi, the applicants' fundamental rights as guaranteed under Articles 14, 16, and 21 of the Constitution of India have been violated.

4.5 That eventually the Hon'ble Central Administrative Tribunal, Cuttack Bench, vide Order dated 20.2.2002 passed in O.A. 57/1986 held that the applicants therein who belonged to Non-Matriculate Cadre are entitled to the pay scale given to Matriculate Cadre. The said Order dated 20.2.2002 was subsequently upheld by the Hon'ble Apex Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 and which was also affirmed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 6.6.2002 passed in O.A. No. 3382/2001.

Copies of the Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 and Order dated 6.6.2002 passed in O.A. No. 3382/2001 are annexed hereto and marked as ANNEXURES- 1 and 2 respectively.

4.6 That the applicants beg to state that the effect and benefit of the aforesaid Orders were extended to the applicants who have preferred those Original Applications.

4.7 That vide Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004, issued by the Under Secretary (Pers.IV), Govt. of India, Cabinet Secretariat, New Delhi, the applicant No. 1 was informed that, the case regarding extension of benefit of higher pay scale to non-metric F.As, (GD) on the basis of CAT Judgment was referred to

3rd Reg

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Ministry of Finance who have intimated that as per general policy of the government the benefit cannot be allowed to non-petitioner. Hence, the said applicant shall have to approach the CAT for grant of higher pay scale.

Copy of the Govt. Memorandum No. 8/1/2004/Pers-10/17490 dated 17.6.2004 is annexed hereto and marked as ANNEXURE- 3.

4.8 That eventually, the applicants served a Legal Notice dated 15.2.2005 under Section 80 C.P.C. upon the respondents through their Advocate by registered A/D post, thereby calling upon the respondents to grant similar reliefs as provided vide the aforesaid Orders passed by the Hon'ble Central Administrative Tribunals as well as by the Hon'ble Supreme Court. However, the said Legal Notice dated 15.2.2005 failed to evoke any response from the respondents.

Copies of the Legal Notice dated 15.2.2005 and the postal receipts pertaining thereto are annexed hereto and marked as ANNEXURE- 4.

5. Grounds for relief with legal provisions:

- I. For that as per their seniority and designation the applicants are entitled to the pay scale of Rs. 225-308 with effect from 1.1.1973 as recommended by the Third Pay Commission which is meant for Matriculate Field Assistants.
- II. For that the applicants are entitled to higher pay scale at parity with Matriculate Field Assistants in terms of the Order dated 20.2.2002 passed by the Hon'ble Central Administrative Tribunal, Cuttack Bench in O.A. 57/1986,

Signature
DABI BOMJEN
-
LANGCHIN BONAM
-
RANWANG LOWANG
-
LANGMA
-
LANGNAT WANGSU
-
BHAM
BHAGI RATA JAYSHI
Rwekindorje
RINCHIN DORJEE

Benji
DAGI BOMGEN
Benji
LANGATHIN BOWAM
Benji
RANWANG LOWANG
LANGUAI
LANGUAI WANGSU
Benji
BHAGIRATH JATSAH
Rinchindong
RINCHAN DORJEE

-7-

which was subsequently upheld by the Hon'ble Apex Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 and which was also affirmed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 6.6.2002 passed in O.A. No. 3382/2001.

- III. For that there has been gross violation of the fundamental rights of the applicants as guaranteed under Articles 14, 16 and 21 of the Constitution of India.
- IV. For that the case of the applicants are similarly situated with that of the aforesaid O.A. Nos. 1107/2000, 1223/2000, 130/2001 and 3382/2001.
- V. For that the respondents have arbitrarily and illegally withheld the benefits of higher pay to the applicants in terms of the recommendations of the Third Pay Commission.
- VI. For that in any view of the matter the applicants are entitled to higher the benefits of higher pay scale at parity with the Matriculate Field Assistants.

6. Details of remedies exhausted:

The applicants state that they have no other alternative and efficacious remedy than to file this application.

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

Not pending.

8. Relief sought:

Purjan
DAGI BOMJEN
him
LANGCHIN BOMAM
Amchul
RANWANG LOWANG
LA
LANGNAM WANGSU
Bjwa
BHAGIRATH JATSH
Rinchindjee
RINCHIN DORJEE
12

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In view of the facts and circumstances stated in the foregoing paragraphs, the applicants pray for the following reliefs -

- a) Declaration that the applicants are entitled to the benefits of higher pay scale with all consequential benefits alongwith arrears and interest thereof at parity with Matriculate Field Assistants holding similar posts under RAW, in terms of the Order dated 20.2.2002 passed by the Hon'ble Central Administrative Tribunal, Cuttack Bench in O.A. 57/1986, which was subsequently upheld by the Hon'ble Apex Court vide Order dated 24.11.1998 passed in Civil Appeal No. 3567/1993 and which was also affirmed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, vide Order dated 18.5.2001 passed in O.A. Nos. 1107/2000, 1223/2000 and 130/2001 as well as vide Order dated 6.6.2002 passed in O.A. No. 3382/2001.
- b) Direction to the respondents to extend the benefits of the aforesaid Orders passed by the Hon'ble Central Administrative Tribunals and the Hon'ble Supreme Court, to the applicants in respect of granting them the pay scale of Rs. 225-308 with effect from 1.1.1973 as recommended by the Third Pay Commission which is meant for Matriculate Field Assistants.
- c) Costs of the application.
- d) Any other relief or reliefs to which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim Order prayed:

No relief is being sought in the interim.

10. Particulars of I.P.O. :

- i) I.P.O. No. : 266319479
ii) Date : 27.2.06
iii) Payable at : Guwahati

11. List of Enclosures:

As stated in the Index.

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

I, Sri Dagi Bomjen, aged about 50 years,. Son of Late Y. Bomjen, Resident of village Beye, Working as SAF/FIP, Laju, C/O A.S.C., S.B., Khonsa, Arunachal Pradesh, do hereby solemnly affirm and declare that I am the applicant No. 1 in the instant application and as such I am fully conversant with the facts and circumstances of the case and further I am duly authorised and otherwise competent to sign this verification for and on behalf of all the applicants and I do hereby verify that the statements made in this verification and in paragraphs 1, 2, 3, 4(P), 7, of the instant application are true to my knowledge, those made in paragraphs 4(P), are true to my information derived from the records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 14th day of August, 2006 at Guwahati.

Dagi Bomjen
DAGI BOMJEN

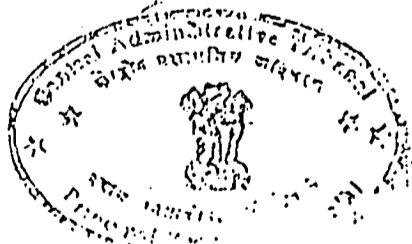
ANNEXURE-1

Central Administrative Tribunal, Principal Bench
Original Application Nos. 1107 & 1223 of 2000 and 130 of 2001
New Delhi, this the 13th day of May, 2001

Hon'ble Mr. V.K. Majotra, Member (Admnv)
Hon'ble Mr. Shanker Raju, Member (J)

(1) Original Application No. 1107 of 2000

1. Sunder Singh S/o Chand Ram R/o 127/L, Sector IV, Pushp Vihar, New-110 017. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
2. S.S. Roohan, S/o Narain Singh R/o 624, Sector II Type II, Sadia Nagar New Delhi-110 049. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
3. Kundan Singh S/o Khem Singh R/o 184, Chandra Vihar Mandawali, Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
4. Ranjit Singh Rawat S/o Kundan Singh Rawat R/o 1960, Lodi Complex Lodi Road New Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
5. Dan Singh S/o Bishu Singh R/o D-72A, Brij Vihar Ghaziabad (U.P.) Working as FA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
6. Dharam Singh S/o Jood Singh R/o 200, Block No. 1, Khichripur, DDA Flats Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
7. Shambu Prasad R/o 204, K Block Kailash, New Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
8. Pan Singh Bisht S/o Har Singh Bisht R/o RZ D-2, 147 Gali No. 3, Mahavir Enclave Palam, New Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
9. Mohan Lal S/o Kasturi Lal R/o 1067, Lodi Complex Lodi Road, New Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
10. Narain Singh S/o Ram Pal Singh R/o 229/18-D, Fazal Pur Mandawali Palam Colony Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.
11. John Will Tirkki S/o Late Sh. Daniel Tirkki R/o RZ Block 12-B Kailash Puri, Gali No. 1, Palam New Delhi. Working as SFA, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi.



Certified to be true copy
R. Bapjiyan
Advocate

12. Hari Dutt Sharma S/o K.R. Shrama, R/o M-54, Sector IV, DIZ Area, Gole Market New Delhi. Working as AFO, Cabinet Secretariat Bikaner House (Annexe), Shajahan Road New Delhi -Applicants

(By Advocate Shri J.K.Bali)

VERSUS

Union of India through

1. The Secretary (R) Cabinet Secretariat, 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001.
2. Special Secretary-I Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001.
3. Under Secretary (PERS-II) Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001. -Respondents

(By Advocate Shri Mahdavi Panikar)

(2)Original Application No.1223 of 2000

1. Kali Ram S/o Sh. Shiv Dayal R/o Vill. Rajpur Khurd, PO IGNOU New Delhi. Working as AFO (GD) in the Cabinet Secretariat.
2. M.P. Peter S/o Late Sh. T.K. Peter R/o Block 86/399, Sector I, Gole Market, New Delhi. Working as SFA (GD) in the Cabinet Secretariat.
3. Balbir Singh, S/o late Sh. Chandgi Ram, R/o 72/4, Pushp Vihar, New Delhi. Working as AFO in the Cabinet Secretariat.
4. R.K. Sharma S/o Late Sh. S.C Sharma, R/o Sector 7/453, R.K. Puram New Delhi. working as AFO(GD) in the Cabinet Secretariat.
5. C.S.Rawat S/o Late Sh.P.S.Rawat, r/o 92/1, Sector-1, Pushp Vihar, New Delhi. Working as AFO(GD) in the Cabinet Secretariat.
6. Gopal Ram S/o Sh.Shri Ram r/o 110/G, Sector 4, Pushp Vihar, New Delhi.Working as AFO(GD) in the Cabinet Secretariat.
7. N.K.Sharma S/o late Seri Chand Sharma r/o 101, Prem Nagar, Karnal, Haryana.Working as SFA in the Cabinet Secretariat.
8. Khem Bahadur S/o late Shri Sukh Bahadur, r/o c/o Babu Lal Sharan, Property Dealer, Main Road, Ghitorni, New Delhi. Working as SFA (GD) in the Cabinet Secretariat.
9. Keshub Dutt S/o Shri Balu Dutt, r/o Block No.63, Qr.No.60, DIZ Area, Gole Market, New Delhi.Working as SFA Working as SFA (GD) in the Cabinet Secretariat.
10. D.S.Yadav S/o Shartu Singh r/o 21 N, CPWD Complex, Basant Vihar, New Delhi. Working as AFO(GD) in the Cabinet Secretariat.

(Adminv)

11. Bani Singh s/o Sh. Bhagwan Singh, r/o V&PO Ghogar Delhi. Working as AFO(GD) in the Cabinet Secretariat.
 12. G.S. Bisht, s/o Shri D.S. Bisht, r/o A 129, Kidwai Nagar, New Delhi Working as AFO(GD) in the Cabinet Secretariat.
 13. D.N. Joshi, s/o B.D. Joshi (late), r/o Block 3/6, Sector-I, Pushp Vihar, New Delhi-110017. Working as AFO(GD) in the Cabinet Secretariat.
 14. N. Ranganathan, s/o late Shri V. Narayanaswamy Iyer, R/o Or.No. 21/64, Lodhi Colony, New Delhi-110003 Working as SFA (GD) in the Cabinet Secretariat.
 15. Inderjit, s/o Shri Pyare Lal r/o Vill. Rampur, P.O. Pataudi, Distt. Gurgaon (Haryana). Working as AFO(GD) in the Cabinet Secretariat.
 16. C.P. Joshi, s/o Late Shri Pati Ram Joshi, II/36, North-West Moti Bagh, New Delhi-110021. Working as AFO(GD) in the Cabinet Secretariat.
 17. G.P. Sharma, s/o Late Shri Gokul Prasad, R/o K-171/19-A Sangam Vihar, New Delhi-110062 Working as AFO(GD) in the Cabinet Secretariat.
 18. Ram Anjour, s/o late Devi Deen r/o 402, Timarpur, Delhi-110054. Working as SFA (GD) in the Cabinet Secretariat.
 19. Guru Prasad s/o Purnand Pant, r/o Sector 5/871, R.K. Puram, New Delhi-110022 Working as AFO(GD) in the Cabinet Secretariat.
- Applicants
- (By Advocate Shri J.K. Balli)

VERSUS

Union of India through

1. The Secretary (R) Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001.
 2. Special Secretary-I Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001.
 3. Under Secretary (PERS-II) Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 001.
- Respondents
- (By Advocate Shri Madhav Panikar)

(3) Original Application No. 130 of 2001

1. K.L. Gupta, AFO (GD)
2. Ishwar Dutt, AFO (GD)
3. Shri Durga Nath Mahant, SFA (GD)
4. Jagdish Singh, S (GD)
5. IS Rawat, AFO (GD)

6. Anil Vadhera, AFO (GO)

7. Faqir Singh, SFA(GO)

8. Sohan Pal Singh (AFO)

(All the applicants are working in the office of Respondents No.2. (By Advocate Shri M.K.Gupta)

- Applicants

VERSUS

1. Union of India, Through the Secretary (R), Cabinet, Secretariat, 7, Bikaner House (Annexe), Shajahan Road New Delhi-110 003.

2. Special Secretary-I Cabinet Secretariat 7, Bikaner House (Annexe), Shajahan Road New Delhi-110003-Respondents

(By Advocate -Shri Madhav Panikar)

Common Order

By V.K.Majotra, Member (Admin) -

As the facts are identical and the issue involved in aforementioned three cases is common, they are being disposed of by this common order.

2. The applicants in these three OAs are non-matriculate Field Assistants/Senior Field Assistants (for short 'FAs/SFAs') (GO) earlier designated as Security Guard in the Research and Analysis Wing (for short 'RAW') of Cabinet Secretariat prior to 1.1.1973. They were appointed in the same pay scale as the Matriculate FAs. They had a common seniority list. Separate pay scales were provided for matriculate and non-matriculate FAs/SFAs after 1.1.1973. There are three different departments within the Cabinet Secretariat i.e. the RAW, Aviation Research Centre (for short 'ARC') and SS8. The applicants have claimed that there had been parity in the pay scales etc. within the RAW and ARC on various posts including the Security Guards, but in ARC they were called as Constables. The 3rd Pay Commission recommended the pay scale of Rs.210-270 for non-matriculate FAs and pay scale of Rs.225-308 for Matriculates. Similar division was done for similarly placed staff designated as Constables in

the ARC with effect from 1.1.1973. The FAs of ARC approached the Cuttack Bench of the Tribunal in the case of Shri Sishirchandra Mohanty & others Vs. Union of India and others, O.A.No.57 of 1986 seeking declaration of differentiation in the pay scale between matriculate and non-matriculate FAs as discriminatory and violative of Articles 14 and 15 of the Constitution of India on the ground that the rules and administrative instructions on the basis of which such differentiation had been done could not have retrospective effect. The said OA was allowed vide order dated 20.2.1992 with the following directions:-

9. In view of the discussions made above we hold that the provisions contained in the ARC/SFF(Field Officers) Service Rules, 1978 not having any retrospective operation and being prospective, has no application to the present applicants. Further more, we hold that for the reasons stated above, the circular memorandum bearing No.XII-25500 dated 27.2.1975 contained in Annexure-2 is not sustainable, it is hereby quashed. We further hold that the applicants are entitled to a pay scale of Rs.225-308/- and accordingly each of them be paid with effect from 1.1.1973. Arrears to which the applicants are entitled be calculated and each of them be paid within 90 days from the date of receipt of a copy of this judgment.

10. Thus, this application stands allowed leaving the parties to bear their own costs.

The Union of India filed an appeal against the said order before the Hon'ble Supreme Court vide Civil Appeal No.3567/1993. The Hon'ble Supreme Court dismissed the said Civil Appeal vide order dated 29.11.1996 which reads as under:-

"We see no infirmity in the order of the Tribunal which has directed that the Constables who were recruited prior to 1.1.1973 should be paid identical scales of pay, especially in view of the fact that there is nothing on the record to show that the Matriculate and non-Matriculate Constables were performing different duties. The order of the Tribunal is correct and requires no interference. The appeal is accordingly dismissed. No order as to costs".

After dismissal of aforesaid Appeal, the respondents implemented the directions of Cuttack Bench in the case of Bichitrananda Mohanty (supra) in respect of FAs of the ARC. The applicants represented to the respondents requesting for grant of the same pay scale and relief as granted to matriculate FAs from 1.1.1973 on the basis of the ratio of aforesaid decision in the case of Bichitrananda Mohanty (supra). The respondents have rejected the representations of the applicants vide various communications stating that the "matter regarding extension of the benefit of CAT judgment to Non-Matric FAs who are non-Petitioners in the above case was taken-up with the Ministry of Finance. They have conveyed the decision to the effect that the benefit of the judgment of CAT is given only to the petitioners and the same is not automatically extended to the non-Petitioners. This policy is being adopted uniformly in all the cases". The applicants are aggrieved by the rejection of their representations and non-extension of the benefit of the judgment in the case of Bichitrananda Mohanty (supra) to non-matriculate FAs who were non-petitioners in the said case.

3. The applicants have contended that no rules under Article 309 of the Constitution of India were framed for the cadres of the applicants on the lines of ARC/SFF (Field Officers) Service Rules, 1970. Therefore, administrative instructions making differentiation between the matriculate and non-matriculate FAs/SFAs cannot have retrospective effect to the detriment of the applicants. The 3rd CPC had not made any recommendations for introduction of different pay scales for matriculate and non-matriculate FAs/ Security Guards

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in the RAW. The applicants have sought direction that they are entitled to pay scale of Rs.225-308/- with effect from 1.1.1973 and consequential arrears.

4. In their counter the respondents have stated that in the year 1984 the designation of Security Guards in RAW was changed to FAs and SFAs vide Notification dated 19.3.1984 (Annexure-F). The pay scales of Security Guards/. FAs were also amended to the effect that FAs doing orderly duties will get the scale admissible to non-matriculate (Rs.210-270) and matriculate FAs would be placed in the scale of Rs.225-308 after rendering 15 years or more regular service in the grade. The post of Security Guard/FA was also reclassified as Group-C (non-gazetted) post vide notification dated 19.10.1984 with retrospective effect from 25.7.1980 (Appendix-G). According to the respondents the FAs (matriculate) are required to assist the Field Office/ other senior officers in the field of conducting intelligence operation to collect intelligence and are required to submit written report to their higher supervisory officers about the tasks assigned to them from time to time. On the other hand the non-matriculate FAs being not educationally qualified are mainly deployed to others works of messenger/ office work and mostly attached to the officers at headquarters and outstation SBx. The respondents have stated that Pay Commission is the specialised body to determine the pay scale of each post in all departments. According to the respondents, the judgment in the case of Bichitrananda Mohanty (supra) was delivered in respect of personnel of ARC which is a different department with a different recruitment

process and, therefore, its benefit cannot be extended to the applicants working in RAW which follows the rules of IB.

5. We have heard learned counsel of parties and considered material on record.

6. The learned counsel of respondents Shri Madhav Panikar at the out set raised an objection of maintenance of CAs on the ground of limitation. He stated that the applicants have claimed relief of grant of pay scale of Rs.225-306 with effect from 1.1.1973 and also that cause of action in the present matters had arisen when FAs/SFAs (GO) of RAW were differentiated on the ground of qualification for according different pay scales to matriculate and non-matriculates by virtue of circular memorandum dated 27.2.1975. He stated that this cause of action had arisen more than three years prior to the constitution of the Tribunal and as such this Tribunal has no jurisdiction in the matter. Shri Panikar, learned counsel relied on the decisions in the cases of Paramu Gopinathan Achary Vs. Union of India and others, 1986 ATC 514, M.K.Balachandran Pillai Vs. Central Administrative Tribunal, (1995) 29 ATC 450, State of Karnataka and others Vs. S.M.Kotrayya and others, (1996) 6 SCC 267. In the matter of Paramu Gopinathan Achary (supra) impugning of final order passed prior to 1.11.1982 was held to be time barred, by the CAT, New Bombay Bench. It was further held that the earliest day on which application could have been made to the Tribunal is on 1.11.1985 on which date the Tribunal came into existence. The combined effect of sub-sections (1) and (2) of Section 21 of Administrative Tribunals Act, 1985 was stated to be that no application can be filed before the Tribunal in respect of final orders passed prior to 1.11.1982 by the Government or

other competent authority under the relevant service rules. In the case of M.K.Balachandran Pillai (supra) it was held by CAT Ernakulam Bench that reckoning of limitation from the date of reply to a delayed representation, on facts, did not give rise to fresh limitation period. In the case of S.M.Kotrayya (supra) the applicants had filed a belated application immediately after coming to know that in similar claims reliefs had been granted by the Tribunal. It was held by their Lordships that mere filing of the belated application on coming to know that similar claims had been granted is not a proper explanation to justify condonation of delay. On the other hand the learned counsel of applicants have stated that whereas the respondents in their counter replies had taken a perfunctory plea of limitation without stating any facts or case law, they are now coming up with judgments in support of their superficial objection. They further maintained that not only that the OA in the case of Bichitrnanda Mohanty (supra) had similar facts relating to the present impugned order, the objection of delay in filing of another similar matter in the case of Shri Kirat Singh Rawat & others Vs. Union of India & another, O.A.1205 of 2000 decided on 22.1.2001 was over-ruled by a co-ordinate Bench of this Tribunal. The case of Shri Kirat Singh Rawat (supra) also related to Constables who were redesignated as Security Guards and ultimately as FAs. It was pointed out by the respondents in that case, that the cause of action had arisen way back on 26.4.1976 when rules were framed for according different pay scales for matriculate-Constables and non-matriculate Constables and that OA having been filed on 30.8.2000 was hopelessly time barred. The Court after considering the

contention of the respondents on limitation found that the decision of the Ministry of Finance making the judgment of the Cuttack Bench applicable only to the applicants therein was taken on 0.10.1999 and was conveyed vide circular dated 1.11.1999. whereby the benefit of aforesaid judgment was denied to the applicants. On the basis of the circular dated 1.11.1999 denying benefit of the judgment of Cuttack Bench, the OA filed on 30.6.2000 was held to be within the period of limitation and objection of limitation was accordingly negatived. The present matter also relates to FAs and SFAs of another wing of Cabinet Secretariat like the applicants in the case of Shri Kirat Singh Rawat (supra), whereby their representations for grant of identical scale of matriculate FAs and extension of benefit of CAT Cuttack Bench in the case of Bichitrananda Mohanty (supra) to the applicants was denied vide memorandum dated 26.11.1999. The facts and circumstances of the present OA and the case of Shri Kirat Singh Rawat (supra) being identical, the objection of limitation in the present matter is also rejected as the findings of that judgment are squarely applicable to the present case and are binding as a precedent having been given by a co-ordinate Bench of this Tribunal. This conclusion is further re-inforced by the ratio of the Hon'ble Supreme Court in the case of M.R.Gupta Vs. Union of India and others, (1995) 5 SCC 628 = AIR 1996 SC 669 wherein their Lordships have held that fixation of pay is a continuing wrong against the concerned employee giving rise to a recurring cause of action each time he was paid salary, and the question of limitation

7. On merits learned counsel of respondents Shri Panikar contended that not only that FAs and SFAs of RAW have been differentiated on the basis of their qualifications for according different pay scales, their duties and responsibilities are also different and have been taken into consideration by the Pay Commission before recommending separate scales for them. The learned counsel of applicants contradicted the claims of the respondents in this regard. Particularly, Shri M.K.Gupta, learned counsel maintained that whereas there had been parity in the pay scales within RAW and ARC on various posts including Security Guards (FAs/SFAs) and all these organisations are under the Cabinet Secretariat, the applicants have been discriminated against, without proper examination of duties and responsibilities of FAs and SFAs. He further maintained that differentiation on the ground of different duties and responsibilities has not at all been mentioned in the impugned order. He pointed out that in the impugned order the only ground taken for grant of different pay scales to matriculate and non-matriculate FAs/SFAs with effect from 1.1.1973 is that the benefit of the judgment of CAT Cuttack Bench is given only to the petitioners in that case and the same is not automatically extended to the non-Petitioners. In the impugned order there is a reference to the decision of the Ministry of Finance which also does not refer to any study made regarding the duties and responsibilities of FAs and SFAs. According to Shri Gupta, learned counsel, now the respondents have attempted at improving their case and grounds by stating that differentiation in the pay scales of matriculate and non-matriculate FAs and SFAs in RAW has been made on the basis of difference in their duties and responsibilities.

6. We have considered the material on record and the respondents have also not been able to bring to our notice any study made by themselves or by the Pay Commission of duties and responsibilities of FAs and SFAs before according different pay scales to matriculate and non-matriculate SFAs. Shri Gupta learned counsel, particularly referred to the following portion of paragraph 6 of respondents' counter in OA 1223/2000 to dig out holes in respondents' claim - the "Non-Matriculate Security Guards(FA), on the other hand, being not educationally qualified, are mainly deployed for other works of messenger/ office work and mostly attached to the officers at Hqs. and outstation SBx. It is not out of place to mention here that the Pay Commission is a specialised body to determine the scale of pay of each posts in all Departments" (emphasis supplied by us). Shri Gupta contended that use of expressions 'mainly' and 'mostly' brings vagueness in the claim of respondents. It means that non-matriculate FAs are many times deployed to do same work as is claimed to be entrusted with matriculate FAs/ SFAs. He further stated that Pay Commission is, certainly a specialised body to determine scales of pay of various posts in all Departments but in the present case this has not been done by the Pay Commission after making any study of duties and responsibilities of matriculate/ non-matriculate FAs/SFAs. Shri Gupta drew our particular attention to Appendix-A to counter reply of respondents in OA 1223/2000, which is a DO letter dated 19.7.1964 from Shri G.P.Chadha, Director (SR) to Shri R.K.Mathur, Member Secretary, Fourth Pay Commission. The contents of said letter are reproduced below:-

"The salary pattern of the posts in R&AW and the DG (S) closely follows the pattern in Intelligence Bureau, CRPF and ITBP. In view of the sensitive

nature of the functions of these two organisations. The Third Pay Commission was informed that the functions and details of pay etc. of posts in these organisations were not being furnished to the Commission. Accordingly, the Commission did not make any reference to posts in these organisations in its Report and the pay scales were revised on the analogy of corresponding posts in Intelligence Bureau, ITBP and CRPF.

2. The present position is that practically all posts in R&AW and DG (S) are comparable to corresponding/ similar posts in the IB, ITBP and CRPF. We, therefore, propose to accept the analogy in respect of such posts in these organisations and the recommendations of the Fourth Pay Commission for these posts in IB, CRPF and ITBP could be extended to comparable posts in the R&AW and DG (S). The Commission is, therefore, requested to agree to the adoption of the proposed procedure which is the same as was followed at the time of the Third Pay Commission, in so far as the posts in R&AW and DG(S) under this Secretariate are concerned.

In response to above letter, the Fourth Pay Commission informed Shri Chadha vide their letter dated 3.7.1984 (Appendix-H) that the Pay Commission had no objection to the adoption of the procedure as proposed by them. This letter of the Pay Commission is proof enough to establish that the Pay Commission had not considered the duties and functions of any posts in the RAW. The respondents have also not established before us that any study had been conducted by them relating to duties and responsibilities of FAs and SFAs of RAW. Further, Shri Gupta, learned counsel brought to our notice that matriculation was not the prescribed qualification for the post of Constable/FAs/ Security Guards in the RAW. The qualification of Matriculation was brought in only after 1984. In the absence of any proof furnished by the respondents regarding any detailed study by Pay Commission/ respondents, about duties and responsibilities of the posts held by the applicants, it can safely be concluded that differentiation in pay scales of matriculate and non-matriculate FAs/SFAs has been made arbitrarily and without any rationale.

Y/V / 1-1-81

9. Shri Gupta, learned counsel of applicants in OA 130/2001 has also relied on the decision of a Full Bench of the Tribunal in the case of C.S.Elias Ahmed Vs. Union of India, (1993) 24 ATC 181= CAT(F.B.)Vol.III 169 wherein it is observed that it is well-settled law that when a Court or Tribunal declares a rule or an order as void as offending the equality clause under the Constitution, the benefit of rule has to be extended to every one concerned and not restricted to the parties who brought the action. He also relied on the case of Amrit Berry Vs. Union of India, 1975 (4) SCC 714 wherein, their Lordships have held that "when a citizen aggrieved by the action of Government department has approached the Court and obtained a declaration of law in his favour, others in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievance to court". He has further relied on the case of Smt.Prem Devi and another Vs. Delhi Administration and others, 1989 (Suppl) 2 SCC 330 wherein their Lordships have held that "[T]he facts as are not in dispute the case of one of the employees having been decided by this Court it was expected that without resorting to any of the methods the other employees identically placed would have been given the same benefit, which would have avoided not only unnecessary litigation but also of the waste of time and the movement of files and papers which only waste public time". In similar facts and circumstances this Tribunal in the case of P.K.Rangachari Vs. Union of India & another (1993) 24 ATC 884 has held as follows:-

"6.....where the Court deals with a matter which is individual and personal to the government servant, like pay fixation or a

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disciplinatory proceedings, that decision would apply obviously only to that government servant. If on the contrary the decision/even in a case filed by a single government servant pertains to a question of principle relating to the conditions of service, even though it is not couched in the form of a general principle, it applies automatically to all those who are in the same situation. That is the effect of the status of the government servant who is governed by a set of rules applicable to all. In such cases, the decision of the Tribunal partakes of the nature of a rule and it gets added to the set of existing rules or modifies one of them.....".

10. In our considered view the ratios of the above judgments along with those in cases of Bichitrananda Mohanty (supra) and Shri Kirat Singh Rawat (supra) are squarely applicable to the facts and circumstances of the present case and as such the findings given by the Tribunal in the case of Shri Kirat Singh Rawat (supra) are mutatis mutandis applicable in the instant cases also.

11. In the result the present OAs are partly allowed. The applicants are directed to be paid pay scale of Rs.225-300 w.e.f. 1.1.1973 notionally. However, consequential arrears of pay benefits of the same will be payable to the applicants in OA 1223/2000 with effect from 24.5.1997, those in OA 1107/2000 from 2.6.1997 and those in OA 130/2001 from 1.1.1996 i.e. with effect from three years prior to the date of filing of these OAs respectively. The arrears payable to the aforesaid applicants shall be paid to them within a period of three months from the date of service of this order. In the circumstances of the case, we make no order as to costs.

(Shankar Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 3382/2001

New Delhi this the 6th day of June, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri M.P.Singh, Member (A)

ANNEXURE -2

1. R.B.Bhargava, AFO
2. H.L.Sharma, SFA
3. H.S. Rawat, SFA
4. P.S.Rawat, SFA
5. R.S. Dhami, SFA
6. G.R.Aree, SFA
7. Bhagwat Swaroop-1, SFA
8. Debendra Singh
9. Chander Pal, SFA
10. Shanker Lal, SFA
11. Kuldeep Kumar, SFA
12. Khub Karan, SFA
13. Mahabir Singh, SFA
14. K.S. Bist, SFA
15. Raj Pal, SFA
16. Bihari Lal, SFA
17. Hari Dutt Sharma, AFO
18. M.S. Tanwar, SFA
19. Devi Singh, SFA
20. Vasudev, AFO
21. Ashok Kumar, SFA
22. Chander Singh, SFA
23. Jai Pal Dhiryan, SFA
24. Pachan Yadav, SFA
25. Bhopal, SFA
26. Suresh Kumar, SFA
27. Channi Ram, SFA
28. A.K.Khanna, SFA
29. A.N.Krishnan, SFA
30. Sultan Singh, AFO
31. Rameshwar Dayal, AFO
32. Dharam Vir Singh, SFA
33. Bhana Raj Singh, SFA
34. K.Sengodan, SFA

..Applicants

(All the applicants are working in the office of Respondents No 2).

(By Advocate Shri M.K.Gupta)

V/s

1. Union of India,
Through the Secretary (R),
Cabinet Secretariat,
7, Bikaner House (Annexe),
Shahjahan Road,
New Delhi-110003.
2. Special Secretary-I,
Cabinet Secretariat,
7, Bikaner House (Annexe),
Shahjahan Road,
New Delhi-110003.

..Respondents

(By Advocate Sh.Madhav Panikar)

*Certified to be true copy
D. Baysyan
Advocate*

-2-

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

In this application the applicants have prayed for a direction to the respondents to grant them the same benefits which have been granted by the Tribunal to the applicants in OA No. 57/1986 as affirmed by the Hon'ble Supreme Court in CA No. 3567/1993 as well as OAs No. 1107, 1205, 1223 of 2000 and 130 of 2001, with all consequential benefits alongwith interest at the rate of 1 % per annum.

2. We have heard Shri M.K. Gupta, learned counsel for the applicants and Shri Madhav Panikar, learned counsel for the respondents and perused the aforesaid relevant judgements and pleadings on record. We note from the reply filed by the respondents that their contention is that they have taken a decision not to extend the benefit of the aforesaid judgements of the Tribunal to other similarly placed persons but only to the applicants in the OAs.

3. In OA 1107/2000, OA 1223/ 2000 and OA 130 of 2001, the Tribunal had disposed of those applications by a common order dated 18.5.2001 (Annexure A-4). We are in respectful agreement with the reasoning of that judgements-order of the Tribunal that similarly situated persons have to be given the same benefits, where the facts and issues are mutatis mutandis applicable, like the present case. Shri

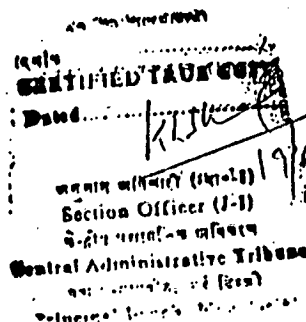
M.K. Gupta, learned counsel for the applicants has submitted that the 34 applicants in the present case are similarly situated as the applicants in the aforesaid original Applications decided by the Tribunal by order dated 18.5.2001, which has in turn followed the earlier order of the Cuttack Bench of the Tribunal which has been approved by the Hon'ble Supreme Court.

4. In the result, the present OA is also partly allowed. The applicants are entitled to similar benefits as were granted to the applicants in the aforesaid judgement of the Principal Bench of the Tribunal dated 18.5.2001. In other words, they will be entitled to notional fixation of pay in the pay scale of Rs. 225-300 w.e.f. 1.1.1973 but having regard to the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985, they shall be entitled to the difference of pay benefits only with effect from one year prior to the date of filing of the OA. The arrears shall be paid to the applicants within a period of three months from the date of receipt of a copy of this order. There shall be no order as to cost.

(M.P. Singh)
Member (A)

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

gk.



ANNEXURE -3

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-28-

-DB-

NO. 53

DIARY NO. 5/53

DATE 29.06.04

No. 8/1/2004/Pers-10 17490

Government of India

Cabinet Secretariat

Despatch. 100.5147

Dt. - 30/6/04

New Delhi, dated the.

MEMORANDUM

17 JUN 2004

p. 115/e

Please refer to your Memo No. 18799/DBR(Est)-3387 forwarding therewith a representation in respect of Shri D. Bomjen, SFA(GD), regarding grant of matric scale to him

2. The case regarding extension of benefit of higher pay scale to non-matric FAs(GD) on the basis of CAT Judgement was referred to Ministry of Finance who have intimated that as per general policy of the government the benefit can not be allowed to non-petitioner. Hence, Shri D. Bomjen, SFA(GD) shall have to approach the CAT for grant of higher pay scale. He may also be informed that permission of the department is not required for approaching the CAT.

free

(SAVITA MEHTA)

UNDER SECRETARY (PERS. IV)

AD. 4/101/74/DBR / PF-II -
SB. Dibrugarh

Deputy Commissioner,
SB Dibrugarh

Forwarded the copy of Hqs
dt 17-6-04 Nrf to your Memo.
KSA/(DB)/2002-243 dt 13-4
The contents of the
Hq may pl. be explained
28/6 official suitably.

Sh. M44

HS

o/p 50/51
/C

50/53/Kdara

Particular to be

any

Page 1
Advocate

Copy sent
to Hqs. on
2/7/04

22/06/04



ANNEXURE-4

REGISTERED WITH ACK.DUE

Date... 15.2.2005

To

1. The Secretary (R)
Cabinet Secretariate-7
Bikaner House (Annexe)
Shajahan Road,
New Delhi-110001
2. The Special Secretary-1,
Cabinet Secretariate-7
Bikaner House (Annexe)
Shajahan Road,
New Delhi-110001
3. The Under Secretary-1
Cabinet Secretariate-7
Bikaner House (Annexe)
Shajahan Road,
New Delhi-110001
4. The Deputy Commissioner,
Special Bureau (S.B)
Dibrugarh, Assam.

NOTICE UNDER SECTION 80 C.P.C.

Sir,

Take this notice that my clients (1) Sri D.Bomjen son of late M.Bomjen working as SFA/FIP Laju, C/O.ASC,SB,Khonsa under Deputy Commissioner,S.B. Dibrugarh (2) Sri L.Bowam son of late Lawakbow village Minu working as AFO/FIP Laju, C/O.ASC,SB, Khonsa, under Deputy Commissioner, S.B.Dibrugarh (3) Sri R.Lowang S/O.Late Wangto Lowang village Kethi working as SFA, C/O. ASC,S.B. Khonsa, under Deputy Commissioner, Dibrugarh (4) Sri L.Wangsu son of late Chemye Wangsu village Paychoe working as SFA,FIP Pangchoe, C/O. ASC,S.B, Khonsa, under Deputy Commissioner, S.B, Dibrugarh (5) Sri B.Jaishi son of late D.P.Jaishi working as SFA/FIP Kibitho, C/O. ASC,SB, Tezu, under Deputy Commissioner, SB, Dibrugarh (6) Sri R.Dorjee son of late D.Arjee village Tezu, working as AFO/FIP Chaglogam, C/O.ASC,SB, Tezu under Deputy Commissioner,SB, Dibrugarh shall sue you for owning and administering the department of RAW including Special Bureau, Dibrugarh unless grant reliefs claim hereinbelow within 60 days from the date of receipt of this notice.

That my clients are doing service more than last 25 years and presently doing service as non matriculate Senior Field Assistant (SFA) and Assistant Field Officer (AFO) in the Department of Special Bureau, Dibrugarh under the Wings of

Contd.....

Authenticated to be
true copy
D. Barman
Advocate

(2)

Date.....

RAW, under the Ministry of Cabinet Secretariate, Union of India, New Delhi, but for the discriminatory pay scale of non matric/matric pass FA, my clients are suffering from receiving Seniority benefit and ACP thereof.

That my clients demand the application of Art.14 of the Constitution of India which means equality before law and equal pay for equal service under the Code of Service rule.

That the Central Administrative Tribunal of Cuttack Bench in the case of Sri Bichitrananda Mohanty & others VS. Union of India & others vide OA No.57/1986 which affirmed by the Hon'ble Supreme Court in CA No.357/93 as well as OAs No. 1107,1205,1223 of 2000 and 130/2001 of Central Administrative Tribunal, Principal Bench, New Delhi granted benefits alongwith interest to the applicants those are working as non matriculate SFA/AFO under the Wings of RAW referring the judgement of the Administrative Tribunal of Cuttack Bench.

That the Central Administrative Tribunal, Principal Bench, New Delhi in the common Judgement of OA No.1107/2000, 1223/2000, 130/2001 observed that it is a settled law that when a Court or Tribunal declares a rule or an order as void as offending the equality clause under the Constitution, the benefit of rule has to be extended to everyone concerned and not restricted to the parties who brought the action, as such the benefit of the judgement of the said Tribunal may be extended to my clients without asking them for an application for the same before the Central Administrative Tribunal, which will be rendered waste of time and harassment to my clients as well as waste of time of the Tribunal & Court as the matter has already been adjudicated.

That considering the judgements and provision of Art.14 of the Indian Constitution i.e. the doctrine of equality before law, should be rendered to my clients extending the benefits of the aforesaid judgement granted by the aforesaid Tribunal as well as Supreme Court removing the discrimination in payment for the equal work.

I therefore on behalf of my aforesaid clients I demand the following reliefs may be granted within 60 days from the date of receipt of this notice.

Reliefs:

1. Grant similar benefit as were granted to the applicant in OA No. 57/1986 of Central Administrative Tribunal of Cuttack Bench which affirmed by the Hon'ble Supreme Court in CA No. 3567/93 as well as O.As No.1107/ 1205,1223 of 2000 and

Contd.....

Pradyum Dutta B.Sc.L.L.B.
Advocate
DIBRUGARH BAR ASSOCIATION

43
P: 2323011 (R)
2326156 (R)
PURNANANDA ROAD
NEAR LAL GODOWN
DIBRUGARH - 786 001

-31-
-23-
(3)

Date.....

130 of 2001 and O.A No.3382/2001 of Central Administrative Tribunal, Principal Bench New Delhi with notional fixation of pay in the pay scale of Rs.225-308 w.e.f. 1.1.1973 with all consequential benefit alongwith arrear and interest thereof.

2. Grant increment in accordance with Proviso FR-26(a).

Yours faithfully)

Pradyum Dutta
15/2/05
Advocate.