

Central Administrative Tribunal
Jabalpur Bench

OA No.750/05

Jabalpur, this the 13th day of October 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

1. M.E.S.Kamgar Union
(A Union registered under provisions of
Trade Unions Act, Regn.No.5062)
Through its General Secretary
Shri Tribhuvan Singh
1538, Choti Ukhari
Yadav Colony, Jabalpur.
2. Badri Singh
Valveman
C/o Shri Tribhuvan Singh
General Secretary
M.E.S.Kamgar Union
1538, Choti Ukhari
Yadav Colony, Jabalpur.
3. Bhaiyalal Galar
MES No.420144
Valveman
C/o Shri Tribhuvan Singh
General Secretary
M.E.S.Kamgar Union
1538, Choti Ukhari
Yadav Colony, Jabalpur.

Applicants

(By advocate Shri V.Tripathi on behalf of
Shri S.Paul)

Versus

1. Union of India through
its Secretary
Ministry of Defence
New Delhi.
2. Engineering-in-Chief
Army Headquarters
DHQ, P.O. New Delhi.
3. Chief Engineer

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Military Engineering Services
HQ Central Command
Lucknow.

Respondents.

(By advocate: Shri S.K. Mishra on behalf of
Shri R.S. Siddiqui)

ORDER

By A.K. Gaur, Judicial Member

In this application, the applicants are seeking to set aside the order dated 2.5.2005 (A-3) and extension of benefit of judgement passed by Jodhpur Bench of the Tribunal in OA No.51/2002 whereby similarly placed Valvemen working under the respondents were granted the pay-scale of Rs.950-1500/.

2. Applicant No.1 is a registered trade union and applicants 2 & 3 are affected employees working as Valveman and belonging to the Union. The contention of the applicants is that the respondents have granted pay scale of Rs.950-1500 (further revised as Rs.3050-4590/-) to similarly situated persons working under the respondents as per the direction of the Tribunal in OA 51/02 but they have rejected the representation of the applicants in this regard, on the ground that the applicants were not parties in that OA. It is stated in the OA that the OA 51/02 was decided in terms of similar cases filed earlier by similarly aggrieved parties and against one such matter i.e. OA No.206/95, the Government preferred Writ Petition No.1391/99 before the Rajasthan High Court. The writ petition was dismissed. Thereafter, an SLP No.3948/2000 was filed before the Apex Court and the SLP was also dismissed on 24.9.01, which meant finality of the judgement rendered in OA 206/95.

3. Learned counsel for the applicant submitted that the judgement of the Jodhpur Bench of the Tribunal in OA No.51/02 is a judgement in rem and not in personam and it has been upheld by the High Court of Rajasthan and the Apex Court. Denial of pay parity with similarly situated persons is violative of Article 14 of the Constitution.

4. Respondents in their detailed counter reply have contended that the respondents have filed SLP No.4932 of 2003 before Hon'ble Supreme Court and the Supreme Court has granted stay of payment in

terms of impugned judgement dated 26th April 2002 passed in CWP No.1423 of 2002 of the High Court of Rajasthan. In para 8 of the reply, the respondents have specifically contended that the pay scale of Rs.950-1500/- (further revised as Rs.3050-4590/-) is applicable only to the skilled category. The Valemán category is a skilled category as per provisions contained in the Ministry of Defence, New Delhi OM dated 16.10.1981 and 24.10.1987. The applicants were initially appointed as Mazdoor and further promoted as Valveman. They have further submitted that the applicants have not submitted their technical qualification certificate at the time of appointment, which is a basic requirement to treat them as skilled category. The applicants were promoted as Valveman only on qualifying the trade tests. Hence they are not entitled to claim the pay parity with similarly situated persons.

5. We have carefully considered the rival contentions and we find that in para 8 of the reply the respondents have specifically stated that the pay scale of Rs.950-1500/-, further revised as Rs.3050-4590/-, is applicable only to the skilled category and the category to which the applicants belong is a skilled category as per provisions contained in the Ministry of Defence, New Delhi OM dated 16.10.1981 and 24.10.1987. If that is so, there is no doubt that the applicants are entitled to get the pay scale of Rs.3050-4590/-. Apart from the stay order by the Apex Court, cited as the reason for not extending the benefit, the only objection taken by the respondents is that the applicants have not submitted the technical qualification certificate at the time of appointment. In our considered opinion, this cannot be a valid reason for denying the benefit to the applicants. The respondents have admitted that the applicants were duly promoted as Valvemen and they belong to skilled category to which the pay scale of Rs.3050-4590/- applies.

6. In the light of above discussion, we are of the firm opinion that the applicants stand on a similar footing as those similarly situated employees in earlier cases. Hence the OA deserves to be allowed.

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7. We hereby quash the order dated 2.5.05 (Annexure A-3) and direct the respondents to consider and decide the case of the applicants for granting the benefits of the judgement rendered by Jodhpur Bench of the Tribunal in OA No.51 of 2002 and in case if the applicants are found to be ^{similarly placed and} eligible in accordance with Rules, they be given the benefit of the revised pay scale applicable to the post of Valveman, with all consequential benefits, within a period of three months from the date of receipt of this order. No costs. *gn*

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(A.K. Gaur)
Judicial Member

gn
(Dr. G.C. Srivastava)
Vice Chairman

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पृष्ठोक्त सं ओ/ज्या.....जवलपुर, दि.....

प्रतिनिधि कार्यस्थल:-

- (1) सदिय, जलपुर, जलपुर
- (2) अध्यक्ष, जलपुर, जलपुर
- (3) प्रत्यक्षी, जलपुर, जलपुर
- (4) अध्यक्ष, जलपुर, जलपुर

सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

S. Paul D.V. 38
S.K. Mishra
D.V. 38

12/10/06

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