

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.108/04

~~Bilaspur~~, this the 6<sup>th</sup> day of March, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. R.K.Shrivastava  
S/o Late Shri G.S.Shrivastava  
Upper Division Clerk  
Section CA-8, Signal Records  
Jabalpur (MP).
2. Santosh Kumar Sen  
Son of Late Shri Dwarika Prasad Sen  
UDC, N.E.R.Group, Library Section  
Signal Records, Jabalpur.
3. A.V.Raut  
Son of Shri Vishwanath Raut  
UDC, CA-7, Promotion Section  
Signal Records, Jabalpur.
4. J.P.Ravekar  
Son of Shri U.Ravekar  
UDC, CA-8, Sigal Records,  
Jabalpur.
5. P.S.Patel  
Son of Shri Ghooram Singh Patel  
LDC, DOC-II, E.R.Group  
Signal Records, Jabalpur.

Applicants.

(By advocate Shri Rajesh Maindiretta)

Versus

1. Union of India through  
Secretary  
Ministry of Defence  
New Delhi.
2. Additional Director General of Manpower  
MP 8 (I of R), Adjutant General's Branch

99

Army Headquarters  
West Block-III  
R.K.Puram, New Delhi.

3. Officer Incharge  
Signal Records  
P.B.no.5, Jabalpur.

Respondents.

(By advocate Shri S.P.Singh)

### ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicants have claimed the following main reliefs:

- (i) Direct the respondents to carry out the cadre review exercises in the department in pursuance to the office memorandums issued from time to time.
- (ii) Direct the respondents to provide the benefit of cadre review in respect of Group 'B', 'C' and 'D' cadre retrospectively.

2. The brief facts of the case are that the applicants 1 to 4 are working as UDC and applicant No.5 is working working as LDC under respondent No.3. The applicants 1,2 and 4 were initially appointed on the posts of LDC in the year 1983 and after almost 18 years were promoted to the post of UDC in 2001. The applicant No.3 was appointed on the post of LDC in the year 1973 and was promoted to the post of UDC in 1988 and since then is continuing on the said post. The promotional avenues of the applicants in the office of the respondent No.3 are almost negligible. The Government of India, Department of Personnel & Training (Policy Planning Division), New Delhi vide OM dated 23.11.1987(Annexure A1) provided the guidelines for cadre review of Groups 'B', 'C' and 'D' cadres in the light of the recommendations made by the 4<sup>th</sup> Central Pay Commission. It was stipulated that the periodical cadre review is an import part of personnel management in the organization. Despite the aforesaid instructions, no cadre review was conducted by respondent No.2. Clarifications in this regard were issued vide OM dated 4.2.98



(Annexure A2). Thereafter, the Ministry of Defence also vide memo dated 5.7.2001 (Annexure A3) informed all the concerned departments that the proposals pertaining to the cadre review of the Group 'C' and 'D' staff of all categories/cadres be finalized at the earliest and also directed that the proposal for cadre review be obtained latest by 31.8.2001 and further to process the same within a period of one month thereafter. The proposals were directed to reach the Department of Personnel & Training by 30.9.2001. Despite the aforesaid communications, the respondent No.2 failed to carry out cadre review in the department. The applicants issued legal notices dated 14.7.2003 (Annexure A6) but without any result. They proposed that cadre review exercise should be conducted after every five years with a view to keep up the morale of the staff and also for smooth functioning of the cadre. Almost all the departments have exercised cadre review as per the Government orders from time to time but no cadre review has been done by the respondent No.2. It is virtually impossible for a UDC to get further promotion despite best performance and excellent service record. The action of the respondents in not carrying out the cadre review in the department is absolutely arbitrary and unjustified. Hence this OA is filed.


3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that according to the OM dated 23.11.87 (Annexure A1) issued by the Government of India, Department of Personnel & Training, New Delhi, certain guidelines were issued for cadre review of Group 'B', 'C' and 'D' cadres in the light of the recommendations made by the 4<sup>th</sup> Central Pay Commission. They proposed that cadre review exercise should be conducted after every five years with a view to keep up the morale of the staff and also for smooth functioning of the cadre. Almost all the departments have exercised cadre review as per the Government orders from time to time but no cadre review has been done by the respondent No.2. The applicants issued legal notices and in spite of their sincere efforts, they could not any result from the side of the respondents while it is impossible for an LDC or UDC to get further

9

promotion despite excellent service record. Hence the applicants are legally entitled for reliefs claimed.

4. In reply, the learned counsel for the respondents argued that the 4<sup>th</sup> Central Pay Commission had made recommendations for cadre review of Group 'B', 'C' and 'D'. Consequent on acceptance of its recommendations, Government had issued instructions/guidelines to implement cadre review of the above cadre vide DoPT OM dated 23<sup>rd</sup> November, 1987 (Annexure R1). The proposal for cadre review could not be finalized as the norms/condition laid down in the DoPT letter were required to be completed for cadre review. However, as the Vth Pay Commission was set up it was decided not to entertain any proposal pertaining to revision of pay scales, allowances, creation/up gradation of posts, cadre review/cadre restructuring etc. as these aspects were covered in the purview of the Vth Pay Commission. A case was again taken up in April 1998 for 'Ratio Revision' between LDC/UDC and Ration Revision between clerks and office Supdts. As per Note dated 13.2.98 is marked as Annexure R2. The case for up gradation of 10% posts of UDCs to that of Assistant, which was taken up with Ministry of Defence during 1998 had been approved and Government sanction was issued vide Ministry of Defence letter dated 20<sup>th</sup> May 2002 (Annexure R3). Thereafter 10% posts of uDCs were upgraded to Assistant w.e.f. 12<sup>th</sup> August, 2002. Instructions issued on the subject could not be fully followed due to the delay in finalization of the up gradation of 10% of UDCs getting special pay to that of Assistant and delay in acceptance and implementation of Vth Central Pay Commission recommendation by the Government. There is no willful delay on the part of respondents. The case for cadre review was again taken up with Ministry of Defence on 10.12.2003. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that the respondents have upgraded 10% posts of UDCs to that of Assistants w.e.f. 12<sup>th</sup> August 2002 and they



have further mentioned that they have again taken up the cadre review with the Ministry of Defence and the matter is still under consideration. The Hon'ble Supreme Court has held in a catena of judgments that the Tribunal should not interfere in the matter of pay scales because the Tribunal is not an expert body. It is the function of a commission. The matter is still pending consideration of the respondents.

6. Considering all the facts and circumstances of the case, we direct the respondents to expedite the matter regarding the reliefs claimed by the applicants.

7. The OA is disposed of accordingly. No costs.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

aa.

पृष्ठंकन सं ओ/न्या. .... जवलपुर, दि. ....  
पतिनिधि अर्थात् विना:-

- (1) सचिव, उच्च न्यायालय काउंसिलर, जवलपुर
- (2) आवेदक श्री/श्रीमती/कु. .... के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु. .... के काउंसल
- (4) न्यायाधीश, के.प्र.अ., जवलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु

28/8/05

Rajesh marni smelt,  
Bav. BBP  
J. P. Singh  
Bav. BBP  
28/8/05

Issued  
On 23-03-05  
BB