

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 330 of 2003

Jabalpur, this the 17th day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.K. Bhatnagar, Judicial Member

S.P. Prajapati, S/o. Shri B.L.
Prajapati, aged about 60 years,
retired Assistant,

and 12 others. ... Applicants

(By Advocate - Shri Rajesh Maindiretta)

V e r s u s

Union of India, Ministry of
Defence, Through Secretary,
New Delhi,

and two others. ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

The applicants 13 in number have filed this Original Application claiming the following main reliefs :

"a. direct the respondent No. 2 and 3 to immediately implement the decision of the Ministry of Finance regarding up-gradation of 10% posts of Upper Division Clerks to that of Assistants in the pay scale of Rs. 5000-150-8000/- with effect from 1.1.1996 instead of 12.08.2002 together with all consequential benefits including pay and allowances;

b. direct the respondent No. 2 and 3 to modify the decision of according the benefit of up-gradation of 10% posts of Upper Division Clerks to that of Assistants with effect from 01.01.1996 instead of 12.08.2002;

c. direct the respondents to implement the decision of the Ministry of Finance regarding up-gradation of 10% posts of Upper Division Clerks to that of Assistants in its entirety and accord the benefit of the same to the applicants with effect from 01.01.1996."

2. The admitted brief facts of the case are that the Vth Central Pay Commission had made recommendations for up-gradation of 10% posts of UDC with special pay to Assistant ^{that of} vide para 46.17 of its report which was accepted by the

Government vide SRO 18-E dated 9.10.1997. However, there was no specific recommendation or order to implement the same from 1.1.1996. Consequently on acceptance of the above recommendations the Government issued instructions to implement the above proposal in accordance with the guidelines issued vide Ministry of Finance (Department of Expenditure) OM dated 19.3.1999 (Annexure A-3). As per clause (a) of these instructions, the UDCs posted against 10% identified posts were to be placed initially in the scale of Rs. 4000-6000/- and allowed special pay of Rs. 140/- per month w.e.f. 1.1.1996 and as per clause (b) sanction may be issued to create additional posts of Assistants in the scale of Rs. 5000-8000/- equal to number of 10% of identified posts of UDCs carrying special pay to Rs. 140 per month. As per Clause (d) of the said OM the additional created posts of Assistants are filled up by promotion as mentioned in clause (c) of the OM and the posts of UDCs carrying special pay of Rs. 140/- per month (pre-revised Rs. 70/-) may be abolished. There were certain conditions attached for upgradation of the posts of UDCs, like amendment of recruitment rules, qualification and creation of posts. The applicants are working in the Signal Records which is under Army Headquarters. The UDCs who were working in various organisations/branches of Ministry of Defence, were getting Rs. 70/- as special pay, which was revised on the recommendations of the Vth Central Pay Commission as Rs. 140/-. Since the respondents have not up-graded the posts from 1.1.1996, they have filed this OA.

3. Heard the learned counsel for the applicants and perused the records carefully.


4. The learned counsel for the applicants has submitted that the Vth Central Pay Commission has recommended for up-gradation of 10% posts of Upper Division Clerks to that of

Assistants in the grade of Rs. 5000-8000/-. These posts were required to be upgraded with effect from 1.1.1996. The respondents have not upgraded the posts from 1.1.1996 but instead upgraded the same with effect from 12th August, 2002. He has also submitted that in certain other branches of the Army Headquarters like Directorate General of Ordnance Services & Master General of Ordnance Branch, the posts have been upgraded with effect from 3rd August, 1998, wherein in the case of the applicants the same have been upgraded from 12th August, 2002. It is a clear discrimination against the applicants who are also working in the said department and the same Ministry i.e. Ministry of Defence. Since the posts of UDCs have been upgraded in the Directorate General of Ordnance Services, Master General of Ordnance Branch with effect from 3rd August, 1998, at least the posts of UDCs in the Signal Records, ^{where} ~~where~~ the applicants are working ^{should} be also upgraded from that date. The applicants ~~not~~ ^{should} be sufferer because of the administrative delay on the part of the respondents.

5. On the other hand the learned counsel for the respondents states that the 10% of posts of UDCs were required to be upgraded with certain conditions such as amendment of recruitment rules and also sanction for creation of posts of Assistants in place of UDCs as per the instruction issued by the Ministry of Defence (Annexure A-3). Earlier the Department has taken a view that there is no requirement of upgradation of 10% posts of UDCs in Signal Records and ^{later} ~~and~~ they have sought clarification from Ministry of Defence in this regard, which has taken some time. Since it has taken some time to process the matter in consultation with the Ministry of Finance, the posts have been upgraded with effect from 12th August, 2002.

6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the applicants are working in Signal Records which is under direct control of Army Headquarter and ^{is a} part of Ministry of Defence. The learned counsel for the applicants has given us a copy of the order dated 3rd August, 1998 issued by the Directorate General of Ordnance Services, Master General of Ordnance Branch, whereby the 10% posts of UDCs have been upgraded to that of Assistants in the revised pay scale of Rs. 5000-8000/- and the posts of Office Superintendent Grade-II also stand redesignated as Assistant. There is a clear discrimination against the applicants. Although there is no specific order that the posts are to be upgraded with effect from 1.1.1996 and the posts have also not been created with effect from 1.1.1996, however, in view of the fact that the posts have been upgraded in Directorate General of Ordnance Services, Master General of Ordnance Branch with effect from 3rd August, 1998, which is a clear discrimination against the applicants as they have been granted the benefits of upgradation with effect from 12th August, 2002. The applicants as well as the persons working in Director General of Ordnance Services, Master General of Ordnance Branch, are part and parcel of the Army Headquarters and are working in the same organisation and such type of discrimination with regard to grant of benefits under the upgradation of posts from different dates is not sustainable in the eye of law.

7. In view of this fact, we direct the respondents to upgrade the posts of UDCs at least from ~~the date i.e.~~ ² 3rd August, 1998, ~~from which date~~ ^{the} ~~the~~ ^{on which} the posts ~~have been~~ ^{were} upgraded in Directorate General of Ordnance Services, Master General of Ordnance Branch. The respondents are further directed to take further action and complete the process within a period



of six months from the date of receipt of a copy of this order.

9. The Registry is directed to supply a copy of the memo of parties to the concerned parties while issuing the certified copy of this order.

(M.P. Singh)
Vice Chairman

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- 28-10-97
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Issued
On 29-10-04
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