

CENTRAL ADMINISTRATIVE TRIBUNAL, JABAL PUR BENCH, JABAL PUR

Original Application No. 49 of 2003

Jabalpur, this the 17th day of September, 2004

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

Vinod Kumar Choudhary
S/o Shri Shyam Lal Choudhary
Aged about 49 years,
R/o Rajendrapura Ward No.1
Old Itarsi (M.P.)

APPLICANT

(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. The Chief Engineer
Head Quarter,
Central Command,
Military Engineering Services,
Lucknow-226 002.
3. The Commandant
Central Proof Establishment
Itarsi-461 114 (M.P.)
4. The Garrison Engineer,
(Air Force),
MES, Maharajpur
Gwalior. 470 020.

RESPONDENTS

(By Advocate - Shri B.da.Silva)

ORDER (ORAL)

By A.K. Bhatnagar, Judicial Member -

By filing this Original Application the applicant
has claimed the following main reliefs :

"(ii) command the respondents to set aside the
order dated 18.10.2002 Annexure A-1,

(iii) upon holding that the petitioner is
entitled to get the pay scale of Rs. 4500-7000/-
being MTG Grade-I,

(iv) command the respondents to grant the said
pay scale from the date of his promotion with
arrears of pay and interest on delayed payment at
the rate deemed fit by this Hon'ble Tribunal."

2. The brief facts of the case as per the applicant
are that he was appointed as MTG Grade-II on 6.11.1979. He
was required to appear in a trade test along with the other
eligible employees. One Shri Jagdish also appeared in the

same trade test along with the applicant but was declared fail by the department, whereas the applicant was declared pass by the department. Thereafter, the applicant was promoted as MTD Grade-I vide order dated 29.5.1997 (Annexure A-2). He was promoted as MTD Grade-I in the pay scale of Rs. 1320-2040/- (revised pay scale Rs. 4500-7000/-). After implementation of the Vth Central Pay Commission, revised pay rules of 1997 were framed. The applicant was holding the post of MTD Grade-I in the pay scale of Rs. 4500-7000/-. The promotion scheme prepared by the Department is filed as Annexure A-3. Feeling aggrieved with the action of the department in not granting the correct pay scale the applicant preferred representations to the department and ultimately filed OA No. 168/2001 which was decided on 10.4.2001 with a direction to the respondents to decide the representation of the applicant. The said representation was rejected by the respondents vide order dated 18.10.2002 (Annexure A-6) which is under challenge in this OA. The learned counsel for the applicant ^{assailed} ~~assailed~~ the grounds taken in the para 5 of the OA and submitted that the respondents have wrongly mentioned that the applicant was entitled to get the pay scale of Rs. 1150-1500/- and not Rs. 1320-2040/-. The promotion scheme and revised pay rules leave no room for any doubt that the pay scale of Rs. 1320-2040 is attached to the post of MTD Grade-I. The learned counsel for the applicant further submitted that the order dated 18.10.2002 runs contrary to the statutory rules and therefore, is liable to be set aside. The applicant is entitled to get the arrears of difference of pay scale from the date of his promotion as MTD Grade-I. The delay and inaction in not paying the pay scale of Rs. 4500-7000/- is solely attributable to the respondents and the respondents are bound to pay the interest on the delayed payment also.

3. Resisting the claim of the applicant the respondents

By

filed the counter reply on behalf of the respondents. The learned counsel for the respondents has submitted that the applicant is seeking the pay scale of Rs. 4500-7000/- on the ground that he has been promoted to the post of Motor Transport Driver Grade-I and the said scale is attached to the said post. The applicant earlier filed a OA by which the direction was issued to decide the representation of the applicant and in compliance the respondents decided the representation by order dated 18.10.2002 filed as Annexure A-6. The applicant was originally holding the post of MTD Grade-II in the pay scale of Rs. 950-1400/- and later was promoted to the post of MTD Grade-I w.e.f. 16.5.1997 and the order of promotion erroneously contained the pay scale of the applicant as Rs. 1320-2040/-. The applicant was actually promoted to the post carrying the scale of pay of Rs. 1150-1500/- and the scale claimed by him was that of selection grade. The revised scale for Rs. 1320-2040/- is Rs. 4500-7000/-. The learned counsel for the respondents further invited our attention to the counter reply filed by them and has submitted that the applicant was appointed as MT Driver Grade-II in accordance with the old scheme/recruitment rules. The Ministry of Defence, vide letter dated 5.12.1996 had prepared a new promotional scheme for Staff Car Drivers in MES. The said scheme received the sanction of the Hon'ble President of India and was introduced with effect from 1.1.1996. The revised scheme changed the existing nomenclature and scales of pay, which is as under :

<u>"Ser No.</u>	<u>Existing Nomenclature</u>	<u>Revised Pay scale under RPR-86</u>	<u>Revised Nomenclature</u>	<u>Revised pay scale under RPR 1997</u>
i.	Civilian MT Driver Gde II	950-1500	Civilian MT Driver (Ordinary grade)	3050-4590
ii.	Civilian MT Driver Grade-I	1200-1800	Civilian MT Driver Grade II	4000-6000
iii.	Civilian MT Driver (Selection Grade)	1320-2040	Civilian MT Driver Grade I	4500-7000

The applicant was promoted to the post of MT Driver Grade I with effect from 16.5.1997 vide order dated 29.5.1997. The applicant could not be promoted to the post of Civilian MT Driver (Selection Grade) without being first promoted to the post of Civilian Motor Transport Driver Grade-I. The learned counsel for the respondents also submitted that in the light of the revised scheme and restructuring of the cadre of Motor Transport Drivers, the scale of pay of Rs. 1320-2040/- is the selection grade and the applicant has been rightly given the scale of pay of Rs. 950-1500/-. The learned counsel for the respondents has filed an order dated 17th July, 1998 for introduction of promotion scheme for civilian motor drivers, in support of their reply.

4. We have heard the learned counsel for the parties and perused the records. We have also gone through Annexure R-1 in which the revised structure of the MT Drivers category posts in the MES has been given. In this the revised nomenclature of the posts of MT Driver Grade-II, Grade-I and MT Driver Selection grade have been shown. It also shows the revised nomenclature of the grade of Civilian Motor Driver (Selection grade) as Civilian MT Driver Grade-I and its revised pay as Rs. 1320-2040/-. The applicant was originally holding the post of MTD Grade-II in the pay scale of Rs. 950-1400/- and was later promoted in the post of MTD Grade-I in the ^{pay} scale of Rs. 1150-1500/- w.e.f. 16.5.1997. We also find that the order of promotion erroneously contained the pay scale of the applicant as Rs. 1320-2040/-. Hence, we find no illegality in the order passed by the respondents in compliance of the order passed by the this Tribunal in OA no. 168/2002 on 18th October 2002 (Annexure A-6). Accordingly, the applicant has no case on merits and the OA is liable to be dismissed. Hence, dismissed being bereft of merits. No costs.

(A.K. Bhatnagar)
Judicial Member

"SA"

(M.P. Singh)
Vice Chairman