

Central Administrative Tribunal, Jabalpur Bench, Jabalpur

Original Application No. 598 of 2003

Jabalpur, this the 28th day of October, 2004

**Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Juidicial Member**

1. Fire Brigade Karmachari Sangh
registration No. 5526, through it's
General Secretary, Shri Dayaram
Rajak, aged about 47 years, S/o
Shri Baldev Prasad, FED-1, Fire Brigade
Section, Gun Carriage
Factory, Jabalpur, District
Jabalpur(MP)
2. Rajendra Singh Gaur, aged about
49 years, S/o Shri Raghubir
Singh, Fireman Grade-I, Fire
Brigade Section, Gun Carriage
Factory.
3. Salim Khan, aged about 48
years, S/o Late Shri Jalik Khan
Fireman Grade-I, Fire Brigade
Section, Ordnance Factory
Khamaria, Jabalpur Distt.
Jabalpur(MP)

Applicants

(By Advocate – Shri S.Nagu)

Versus

1. Union of India, through Scretary
Department of Defence
Production and Supplies, Ministry of
Defencde, South Block, New Delhi
2. Chairman, Ordnance Factory
Board, 10-A, Khudiram Bose,
Kolkata, West Bengal.
3. General Manager, Gun Carriage
Factory, Jabalpur, Distt- Jabalpur (MP)



(By Advocate – Shri S.A.Dharmadhikari)

ORDER

By M.P. Singh, Vice Chairman –

By filing this OA the applicants have sought the following main reliefs :-

“8.1 to direct the respondents to extend and apply the pay scale of 2750-4400 to fireman II and the scale 3050-4590 to Fireman – I w.e.f. 01.01.96 for atleast from 01.04.98 with all Consequential benefit.

8.2 to direct respondent to pay salary to Fireman-I & II of Ordnance Factories is above pay scale and further release the arrear of salary accrued to them 01.04.96 to 1.4.98.

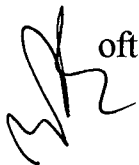
8.3 to declare that the action of respondents in failing to treat the similarly situated fireman of Ordnance Factories and these of DRDO/AOC is arbitrary, discriminatory, capricious and therefore unsustainable in the eyes of law.”

1 The brief facts of the case are that the applicant no.1 is a registered trade union and representing Fireman Grade-I and Grade-II in Ordnance Factories in Madhya Pradesh. Applicants nos.2 and 3 are working as Fireman Grade-I in Gun Carriage Factory and Ordnance Factory Khamaria, Jabalpur respectively. According to the applicants the service conditions of these two categories of Fireman is governed by Indian Ordnance Factories Group 'C' and 'D' Supervisory and Non-gazetted (Recruitment and Service Conditions) Rules, 1989 which provide filling of the post of Fireman Grade-II 100% by direct recruitment. According to the applicants, the nature of duties, the number of duty hours, the skill require and the job requirement is identical of a fireman working in DGOF and DRDO. The fireman working in AOC ~~staff~~ [↓] who are enjoying the same beneficial pay scale structure as enjoyed by the fireman of DRDO in the Ministry of Defence. It is submitted by the applicants

that Ministry of Defence vide order dated 26.3.1998 (Annexure-A-2) has sanctioned three different pay scales to Fireman (Rs.2750-4400), Senior Fireman 'A' (Rs.3050-4590), and Sr.Fireman 'B' (Rs.3200-4900), whereas the pay scale of Fireman working in Ordnance Factories is Rs.2650-4000 and Rs.2750-4400. They have submitted that since the nature of duties performed and the service conditions of Fireman working in the Ordnance Factories are identical to the Fireman working in DRDO and DGOF organization, they are also required to be given the same pay scale as has been sanctioned to them. They have made representations to the respondents which have not been acceded to. Hence they have filed this O.A. claiming the aforementioned reliefs.

2. During the course of arguments, the learned counsel for the applicants has stated that the JCM Sub Committee has recommended the following pay scales for the Fireman working in the Ordnance Factories :- Fireman 'C' (Rs.2750-4400), Fireman 'B' (Rs.3050-4590), and Fireman 'A' (Rs.3200-4900). Despite the recommendations made by the JCM Sub Committee, the higher pay scales have not been granted to the applicants. On the other hand the learned counsel for the respondents has stated that the proposal granting parity of pay scales to the fireman working in the ordnance Factories with those of Fireman working in DGOF organization has been considered in consultation with the Ministry of Finance . As the duties and conditions of service of the Fireman working in Ordnance Factories are different from those of the Fireman working in DGOF organization, they have not been granted the same pay scale. Moreover, the Pay Commission has also not made such recommendations.

3. We have carefully considered the rival contentions made on behalf of both the parties. It is settled legal position that it is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, the




answer to which depends on several factors, namely, evaluation of duties and responsibilities. Therefore, it should be left to expert bodies like the Pay Commission and the Court should normally accept the recommendations of Pay Commission (see – Supreme Court Employees Welfare Association Vs. Union of India, AIR 1990 SC 334.). In the case of Union of India & anr. Vs. P.V.Hariharan and anr., 1997 SCC (L&S) 838 has held as under:

4. Quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scales of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below put forward their claim on the basis of such change. The Tribunal should realize that interfering with the prescribed pay scales is a serious matter. The Pay Commission which goes into the problem at great depth and happens to have a full picture before it is the proper authority to decide upon this issue. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales.

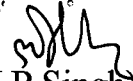
5. Keeping in view the aforesaid law laid down by the Apex Court, we cannot pass any order granting the higher pay scale to the applicants. However, we may observe that if the applicants file a detailed representation to the respondents within one month from the date of receipt of a copy of this order, the respondents are directed to consider their representation and also treat this OA as part of their representation and decide the same by passing a speaking order within a period of six months from the date of receipt of a copy of the aforesaid representation. While passing the order the respondents shall keep in view the recommendations made by the JCM sub-committee



and also the recommendations of the 5th CPC with regard to the pay scales granted to Fireman in ~~Ordnance Factories~~, DRDO & DGOF. 

6. In the result, the O.A. is disposed of in the above terms. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

Rkv

पृष्ठंकन सं ओ/न्यः.....जबलपुर, दि.....
प्रतिनिधि 01 के निम्न:-

- (1) सचिव, उच्च न्यायिक न्यायिक प्रशासन, जबलपुर
- (2) अतिरिक्त सी/पीएम 1/कु.....के काउंसल
- (3) प्रवर्तक सी/पीएम 1/कु.....के काउंसल
- (4) सी/पीएम 1/कु, जबलपुर न्यायिक प्रशासन
संयोजन एवं आवश्यक कार्यवाही हेतु

S. Nayyar

SA Dharmakumar

सचिव न्यायिक प्रशासन

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