

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.82 of 2002

Jabalpur, this the 31st day of October, 2003

Hon'ble Shri M.P.Singh-Vice Chairman (Admnv.)
Hon'ble Shri G.Shanthappa-Judicial Member

1. S.M.Gautam, S/o Late Shrikrishna Gautam, aged about 49 years.
2. R.K.Mishra, S/o D.R.Mishra, aged about 50 year.
3. S.P.Verma, S/o Late M.R.Verma, aged about 50 years,
4. V.S.Sudhakaran, S/o late V.K.Suhramaniyam, aged about 50 years.
5. T.V.Samuel, S/o Late V.Varghese, aged about 50 years.
6. V.P.Joshi, S/o P.V.Joshi aged about 50 years.

All working as Chargeman Gr.II (N.T.), Vehicle Factory, Jabalpur

- APPLICANTS

(By Advocate - Shri Manej Sharma)

Versus

1. Union of India, Through Secretary, Ministry of Defence (Deptt. of Production), South Block, New Delhi.
2. The Ministry of Finance, (Deptt. of Expenditure), North Block, New Delhi, Through its Secretary.
3. The Ordnance Factory Board, 10-A, S.K.Bose Road, Kolkatta, Through its Chairman.
4. The Sr.General Manager, Vehicle Factory, Jabalpur (M.P.).

- RESPONDENTS

(By Advocate - Shri P.Shankaran)

ORDER (Oral)

By M.P.Singh. Vice Chairman (Admnv.)-

Applicants six in number are working as Chargemen Grade-II (NT) in the Vehicle Factory, Jabalpur. They have filed this O.A. claiming the following main reliefs:-

"(i) to quash and set aside the impugned orders dated 5.11.2001(Annex.A-1 (i) to (vi) and Annex.A-2(i) to (vi) dated 21.12.2001.

(ii) to direct the respondents to grant the benefit of enhanced special pay @ Rs.140/- w.e.f. 1.1.1996 and re-fixation in the promoted post to the applicants in terms of the policy decision dated 9.4.1999(Annexure-A-4) of the Ministry of Defence.



- (iii) direct the respondents to calculate the arrears on the count of interest corresponding to all amounts due from their respective dates and pay to the applicants."

2. The brief facts of the case are that applicants who were earlier working as UDC are now working as Chargeman-II(NT), Upper Division Clerks (for short 'UDCs') posted against 10% identified posts for doing complex nature of duties were granted special pay at the rate of Rs.35/- per month vide Govt.of India,Min.of Finance OM dated 5.5.1979. This benefit of special pay in the cadre of UDC was extended to all Central Govt.employees including civilians working in all Directorates of Ministry of Defence like A.O.C., M.E.S., D.G.Q.A., Ordnance Factories etc. On the recommendations of the Fourth Central Pay Commission (for short '4th CPC') this amount of special pay was enhanced to Rs.70/- per month. The present applicants have also been getting this benefit of special pay of Rs.70/- since 1994-1995. The 5th CPC had also recommended to create additional posts of Assistants in the pay scale of Rs.5000-8000 in place of these 10% identified posts of UDCs and had also recommended that the posts of UDCs, carrying the special pay of Rs.140/-per month, be abolished.

3. The contention of the learned counsel of the applicants is that the benefits on the recommendations of the 5th CPC for upgradation of the post of UDCs in the scale of Rs.5000-8000 and grant of special pay of Rs.140/- per month w.e.f. 1.1.1996, and also to take into consideration the special pay of Rs.140/- at the time of their promotion to the post of Assistant/Chargeman Gr.II, have been denied to them; whereas the same benefit has been extended in other Departments and Ministries in the Govt.of India.

4. The respondents in their reply have stated that the 5th CPC did not recommend the continuance of the special pay and instead had recommended that the 10% identified posts of UDCs, drawing special pay of Rs.140/-,

are to be upgraded to the post of Assistants, Vide Ministry of Finance OM dated 19.3.1999 circulated under Ministry of Defence letter dated 9.4.1999. a proposal was forwarded to Ministry of Defence for creation of additional posts of Assistant equal to the 10% identified posts of UDCs carrying special pay of Rs.70/- per month. However, the Ministry of Finance vide their letter dated 26.6.2001 opined that the special pay given to the UDCs working in the Ordnance Factories was in violation of the Ministry of Defence order dated 29.6.1979 and as such they did not agree for creation of additional posts of Assistants by upgrading 10% posts of UDCs. The Ministry of Finance further advised to operate these posts in the normal replacement pay scale of Rs.4000-6000 with the simultaneous withdrawal of special pay. According to the respondents the 5th CPC's recommendations given in Para 46.17 of its Report, as mentioned above, was not applicable to the ministerial staff in the grade of UDC as they were already having the next clerical grade of Office Superintendent Grade-II which has been re-designated as Assistant as per recommendations of the 5th CPC and they were receiving the special pay of Rs.70/- per month wrongly.

5. Heard both the learned counsel of parties at great length and carefully perused the pleadings available on record.

6. During the course of arguments, the learned counsel for the applicant has submitted that the Ministry of Finance had accepted the recommendations of the 5th CPC to upgrade the 10% identified posts of UDCs to that of Assistant in the pay scale of Rs.5000-8000, and the Ministry of Defence had also accepted the recommendations of the 5th CPC to enhance the special pay of Rs.70/- to Rs.140/- with effect from 1.1.1996 and also to take into account this amount for the purpose of fixing of the pay of the incumbents at the time of their promotion to the next higher grade. To support his contention, he has drawn

our attention to the letters issued by the Ministry of Defence dated 4.9.1998 (Annexure-A-13), by the Ministry of Finance dated 28.5.1999 and by the Principal Controller of Accounts, Calcutta dated 12.5.2000 (Annexure-A-15). He also submitted that this benefit has been extended to all the Directorates and the Departments of the Govt. of India excepting to the persons working in the Ordnance Factories.

7. We have very carefully perused the material placed before us and we find that the recommendations of the 5th CPC has been accepted by the Ministry of Finance as per letter dated ^{19.3.1999 and} 28.5.1999 (Annexure-A-12 & A-14) and by the Ministry of Defence as per letter dated 4.9.1998 (Annexure-A-13). According to these letters the Ministry of Finance had accepted the recommendations of the 5th CPC to upgrade 10% identified post of UDCs in the scale of Rs.4000-6000 to that of Assistant in the scale of Rs.5000-8000. An extract of letter dated 4.9.1998 (Annexure-A-13) is reproduced below-

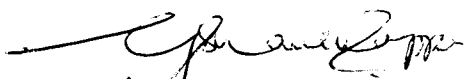
"Sanction of the President is hereby ordered for upgradation of 80 posts of Upper Division Clerks in the DGQA Establishments and 3 posts in DQA(Navy) to Assistants (Scale of Rs.5000-8000) without special pay of Rs.70/- per month."


It is also clear from the letter dated 4.9.1998 issued by the Ministry of Defence that the same benefit has been extended to the persons working in the Directorate of Quality Assurance - a sister organisation of the same Ministry in which the applicants are working. In view of this, the persons working in the Ordnance Factories cannot be discriminated and the same benefit cannot be denied to them. The contention of the respondents that this benefit cannot be granted to the applicants is without any logic and is not tenable.

8. For the reasons stated above, this OA is partly allowed. The respondents are directed to extend the same benefits as has been extended to the similarly

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situated persons in the DGQA and other Directorates of the Department with regard to grant of special pay of Rs.140/- per month with effect from 1.1.1996 and also take into account this amount for the purpose of fixing of their pay at the time of their promotion to the next higher grade. The aforesaid directions be complied with within a period of four months from the date of communication of this order. No costs.

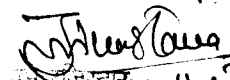

(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

Received
2/11/96

प्रमाणित की जायगी.....
कोषीय.....
(1) प्रमाणित की जायगी.....
(2) प्रमाणित की जायगी.....
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(4) प्रमाणित की जायगी.....

Manoj Sharma, Addl.
P. Shankaran, Addl.

7.11.03