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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CHANDIGARH BENCH,  
CHANDIGARH.**

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O.A.No.060/01146/2014

Date of Decision : 12.05.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

1. MES No.312435 Swaran Singh, FGM
2. MES No.366690 Sardool Singh, FGM
3. MES No.366506 Sudesh Kumar
4. MES No.359565 Sucha Singh
5. MES No.373347 Sarabjit Singh, FGM
6. MES No.371867 Sandeep Kumar, FGM
7. MES No.372088 Prem Kumar, FGM
8. MES No.505441 Bhagwant Singh, FGM
9. MES No.312437 Bhagwati Parshad, FGM
10. MES No.392829 Vijay Kumar, Valveman
11. MES No.368667 Surjan Lal, FGM
12. MES No.1059248 Virsa Singh, FGM
13. MES No.373010 Swaran Singh, FGM
14. MES No.370306 Vijay Kumar, FGM
14. MES No.373031 Sawinder Pal Singh, FGM
16. MES No.372465 Jasbir Singh, FGM
17. MES No.373035 Varinderpal Singh, FGM
18. MES No.372307 Manohar Lal, FGM
19. MES No.372334 Rajesh Kumar, FGM
20. MES No.373015 Kashmir Singh, FGM
21. MES No.371863 Jagmohan, FGM
22. MES No.370296 Sukhdev Raj, FGM
23. MES No.372299 Baldev Singh, Electrician
24. MES No.372302 Balraj Singh, Electrician

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25. MES No.371596 Pirthi Chānd, Electrician  
26. MES No.373004 Tarsem Masih, Electrician  
27. MES No.372301 Gurmit Singh, Electrician  
28. MES No.374998 Sukhdev Singh, Electrician  
29. MES No.366315 Gurcharan Singh, Electrician  
30. MES No.372084 Sharda Singh, Electrician

All C/o Garrison Engineer (NAMS) Amritsar.

31. MES No.265478 Narinder Singh, Electrician  
32. MES No.372507 Hans Raj, FGM SK  
33. MES No. Shushil Kumar, FGM SK

All C/o Garrison Engineer, Gurdaspur.

Applicants

Versus

1. Union of India through Secretary, Ministry of Defence, Army HQ, New Delhi.  
2. The Engineer in Chief, Army HQ, New Delhi.  
3. The Chief Engineer, Western Command, Chandimandir.  
4. Commander Works Engineer, Amritsar.  
5. Garrison Engineer (NAMS) Amritsar.  
6. Garrison Engineer, Gurdaspur.

Respondents

Present: None the applicants

Sh. Sanjay Goyal, counsel for the respondents

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ORDERHON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

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1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking direction to the respondents to grant Night Duty Allowance at the revised rates (on the basis of actual salary) w.e.f. 01.01.1996 and further revise the same w.e.f. 01.01.2006 with all consequential benefits including arrears etc. along with interest @ 18% p.a. extending the benefit of the judgment Annexure A-1 which has been followed by this Tribunal vide Annexure A-6 and A-7.
2. Averment has been made in the OA that all the applicants are working as Group 'C' Industrial Civil employees in Military Engineering Service (MES) under the Command of respondent no.4 and are posted under the Command of respondents no.5 & 6. By the nature of their duties, the applicants are required to perform duty at night hours on shifts at various installations in order to maintain the essential services in the area. After seeing the conditions of work of the defence civilian employees and employees of other Departments such as the Railways, in the year 1985, the Central Govt. sanctioned Night Duty Allowance w.e.f. 01.01.1986 to Group 'C' employees working in Central Govt. Departments including the Defence Civilian employees. After the implementation of the recommendation of 5<sup>th</sup> Pay Commission w.e.f. 01.01.1996, whereas employees of other Department i.e. Railway and other Departments of Central Govt. started getting Night Duty Allowance on the basis of revised pay w.e.f.

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01.01.1996, the applicants working under the Ministry of Defence were paid the Night Duty Allowance in the pre-revised scale of 1986. Even after the implementation of the recommendation of 6<sup>th</sup> Pay Commission w.e.f. 01.01.2006, the Night Duty Allowance was given on the basis of revised scales to the employees of the Railways and other Departments of Central Govt. but in the case of the applicants, the Night Duty Allowance was being paid to them on the basis of scales of 1986.

3. The Group 'C' employees of MES posted in Rajasthan approached the C.A.T. Jodhpur Bench by way of filing OA No.34 of 2008 titled "Ram Kumar & Ors. Vs. UOI". The OA was allowed vide order dated 05.11.2009 holding that Night Duty Allowance shall be paid to the applicants therein and the similarly situated persons on the basis of actual salary (Annexure A-1). Since the Night Duty Allowance was only given w.e.f. April, 2007 and not from 1996, the applicants therein filed Review Petition and the same was allowed by the C.A.T. Jodhpur Bench vide order dated 09.04.2010 by holding that the applicants are entitled for arrears till March, 2007 (Annexure A-2). When the respondents did not implement the orders at Annexure A-1 and A-2, the applicants therein filed Contempt Petition and thereafter respondents no.1 & 2 gave sanction to implement the order passed by the Jodhpur Bench of this Tribunal vide letter dated 30.07.2012 as is evident from letter dated 01.08.2012 (Annexure A-3).

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4. Similarly situated employees approached this Tribunal by way of filing OA No.417/PB/2013 titled "Sanjeev Kumar & Ors. Vs. UOI & Ors." and the same was allowed by this Tribunal on 21.02.2014. Further another set of similarly situated employees like the applicants approached this Tribunal by way of filing OA No.1269/PB/2013 titled "Harbans Lal & 9 Ors. Vs. UOI & Ors." and the same was allowed by this Tribunal on 13.01.2014 (Annexure A-6). Recently, this Tribunal has allowed OA No.060/00839/2014 titled "MES No.374476 Lachman Singh & Ors. Vs. UOI & Ors.", vide order dated 22.09.2014 (Annexure A-7).

5. In the grounds for relief it has, inter-alia, been stated as follows:-

- i) Since the recommendations for the grant of revised Night Duty Allowance has been made by the 5th and 6<sup>th</sup> Pay Commission and the same has been accepted by the Govt., then the benefit of revised Night Duty Allowance could not have been denied to the applicants.
- ii) The law is well settled that similarly situated employees are entitled for the benefit of a judgment which is passed by the Courts in a policy matter, if it is not done then it is a case of discrimination.
- iii) The case of the applicants is squarely covered by the judgment rendered by the Jodhpur Bench in the case reported as Ram Kumar & Ors. Vs. UOI (Annexure A-1) which has been followed by this Tribunal vide judgment Annexure A-6 and A-7. Rather, respondents no.1 and 2 ought to have implemented the judgment Annexure A-1 qua all the employees performing night duty.

Hence this OA.

6. In the written statement filed on behalf of the respondents, preliminary objection has been taken that the representations of the applicants are still pending with the respondent Department and the applicants without

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awaiting the outcome of the same have rushed to the Tribunal for redressal of their grievance. The OA is thus premature and is therefore liable to be dismissed. On merits, it has been stated that the applicants come under the Ministry of Defence and not under the Ministry of Railways and hence they cannot be equated with the Railway employees who have got the Night Duty Allowance at the enhanced rates.

7. When the matter came up for consideration, none was present to represent the applicants. Hence, Rule 15 of the C.A.T. (Procedure) Rules, 1987 is invoked and I proceed to decide the matter.

8. Learned counsel for the respondents emphasized that the representations of the applicants was still pending for decision and hence the OA was premature.

9. I have given my careful consideration to the matter. The claim of the applicants is squarely covered by the judgments dated 05.11.2009 in OA No.34 of 2008 of Jodhpur Bench of the C.A.T. and dated 13.01.2014 in OA No.1269/PB/2013 of the C.A.T. Chandigarh Bench. Hence, the applicants in the present OA are held entitled to relief as allowed vide order dated 05.11.2009 (Annexure A-1) and dated 09.04.2010 (Annexure A-2) that read as follows:-

"(i) The Nigh Duty Allowance shall be paid to the applicants and the similarly situated persons on the basis of the actual salary after taking out the pay structure determinants like HRA etc. which has no actual

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relation to the work performed and on the basis of this pay, thus, arrived at, Night Duty Allowance is payable to the applicants.

(ii)(a) The applicants are entitled to such arrears based on the actual pay arrived at in relation to clause no.1 as above till March, 2007 also."

Arrears due to the applicants may be paid in terms of the above order within six months from the date of receipt of a certified copy of this order by the respondents, and any delay beyond this shall invite interest @ 6% per annum.

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

*R.S.*  
(RAJWANT SANDHU)  
ADMINISTRATIVE MEMBER.

Place: Chandigarh  
Dated: 12.05.2015

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