

**CENTRAL ADMINISTRATIVE TRIBUNAL,**

**CHANDIGARH BENCH**

O.A.NO.060/01142/2014      ORDERS PRONOUNCED ON: 6.12.2016  
& M.A.No.060/01320/2015 (Orders reserved on: 24.11.2016)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (J).**

1. NASIB SINGH, TECHNICIAN 'C', SON OF SH. NARANJAN SINGH, POSTED AT SNOW & AVALANCHE STUDY ESTABLISHMENT, RESEARCH & DEVELOPMENT CENTRE, HIM PARISAR, PLOT NO.1, SECTOR 37-A, CHANDIGARH .
2. ANJU BALA TECHNICIAN 'C' WIFE OF SH. ANURAG SHARMA, POSTED AT SNOW & AVALANCHE STUDY ESTABLISHMENT, RESEARCH & DEVELOPMENT CENTRE, HIM PARISAR, PLOT NO.1, SECTOR 37-A, CHANDIGARH.
3. VINOD KUMAR TECHNICAL ASSISTANT 'B', SON OF SH. MANGAT RAM, POSTED AT SNOW & AVALANCHE STUDY ESTABLISHMENT, RESEARCH & DEVELOPMENT CENTRE, HIM PARISAR, PLOT NO. 1, SECTOR 37-A, CHANDIGARH.
4. ANEK SINGH RANA, TECHNICIAN 'B', SON OF SH. KARAM SINGH RANA, POSTED AT SNOW & AVALANCHE STUDY ESTABLISHMNT, RESEARCH & DEVELOPMENT CENTRE, HIM PARISAR, PLOT NO. 1, SECTOR 37-A, CHANDIGARH .
5. HARMEVA SINGH, TECHNICAL ASSISTANT 'B', SON OF SH.ATMA SINGH, POSTED AT TERMINAL & BALLISTIC RESEARCH LABORATORY, SECTOR 30, CHANDIGARH.
6. KARNAIL SINGH, TECHNICAL ASSISTANT 'B', SON OF SH. PRITAM SINGH, POSTED AT TERMINAL & BALLISTIC RESEARCH LABORATORY, SECTOR- 30, CHANDIGARH.

APPLICANTS

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VERSUS

1. UNION OF INDIA

THROUGH SECRETARY MINISTRY OF DEFENCE,  
SOUTH BLOCK,  
NEW DELHI.

2. THE DIRECTOR GENERAL,

DRDO, THROUGH ADDL. DIRECTOR,  
HUMAN RESOURCE DEVELOPMENT,  
MINISTRY OF DEFENCE,  
GOVT. OF INDIA,  
'B' BLOCK, DRDO BHAWAN,  
RAJAJI MARG, NEW DELHI-110015.

3. THE DIRECTOR, SNOW & AVALANCHE STUDY ESTBLISHMENT,

RESEARCH & DEVELOPMENT CENTRE,  
HIM PARISAR, PLOT NO. 1, SECTOR 37-A,  
CHANDIGARH.

4. THE DIRECTOR,

TERMINAL & BALLISTIC RESEARCH LABORATORY,  
SECTOR-30,  
CHANDIGARH .

5. SECRETARY, MINISTRY OF FINANCE,

DEPARTMENT OF EXPENDITURE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI-110001.

6. SECRETARY, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES,

DEPARTMENT OF PERSONNEL AND TRAINING,  
GOVERNMENT OF INDIA, NORTH BLOCK,  
NEW DELHI-110001.

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RESPONDENTS

Present : Mr. Rajeev Anand, Advocate.  
None for Respondents No.1 to 4  
Mr. Arvind Moudgil, Advocate for Respondents No.5&6.

**ORDER**  
**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

1. The applicants have filed this O.A. under section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs :-
  - "(i) Quashing of the order dated 30.09.2014 (Annexure A-9) whereby the representation dated 11.11.2013 filed by the applicants for the grant of the benefits of upgradation flowing from the accepted recommendations of the 5<sup>th</sup> Central Pay Commission Report has been rejected.
  - (ii) Directions to the respondent authorities for the grant of the benefits of upgradation flowing from the accepted recommendations of the 5<sup>th</sup> Central Pay Commission report and the quashing of the inaction thereof which has resulted into further downgrading of the cadre of technicians in the respondent department in the accepted recommendations of the 6<sup>th</sup> Central Pay Commission wherein the technician cadre to which the applicant belongs has suffered disparity and financial loss viz-a-viz Technical as well as Non-Technician Staff in the respondent department itself and also the other Departments of the Government of India."
2. The facts, which lead to filing of this Original Application, are that they are working on various posts in Technical Cadre, the hierarchy of which is Technician "A" in the Pay Band-1, grade pay of Rs.1900/-; Technician "B" in the Pay Band-1, grade pay of Rs.2400/-; Technician "C" in the Pay Band-1, grade pay of Rs.2800/-; Technical Assistant "B" in the Pay Band-2, grade pay

of Rs.4200/- and Technical Officer Pay Band-2, Grade pay of Rs.4600/-. The posts are governed by Defence Research and Development Organization Technical Cadre Rules, 1995. The rules provide for provision for constitution of the Defence Research and Technical Cadre comprising of posts shown in Schedule-I of the said rules including their pay scales and classification of service as specified in Schedule-II. It was followed by another notification dated 19.4.1999 introducing Defence Services (Revised Pay) Amendment Rules, 1999. The post of Technician "C" existing in pay scale of Rs.1320-2040 was placed in new pay scale of Rs.4500-7000. The applicants claim that from the accepted recommendations of the 5<sup>th</sup> CPC, it is apparent and unambiguous that in order to alleviate the sense of grievance, the Highly Skilled-I and Highly Skilled-II grade were merged into one pay scale of Rs.1320-2040. As a direct consequence of said merger, it required Technician 'B' and Technician 'C' to be placed and merged in a common scale wherein by not doing so in the notification issued vide SRO 77 dated 19.4.1999 by placing the post of Technician 'C' from Rs.1320-2040 to Rs.4500-7000. Technician 'B' (Highly Skilled Grade-II) post at this stage itself by the accepted recommendations of the 5<sup>th</sup> Central Pay Commission was required to be placed and merged at par with the Technician 'C' (Highly Skilled Grade-I) post. The Government of India, notified Defence Research and Development Organization, Technician Cadre Recruitment Rules, 2000 providing that there shall be two categories viz. Category A and B in DRDO providing for promotion from Technician A to B and B to C ignoring that these scales of pay had been merged in pay scale of Rs.1320-2040'and

as such anomaly crept w.e.f. 1.1.1996 continues to hurt the applicants. The applicants raised issue of upgradation of Technician C at par with Master Craftsman (Grade Pay of Rs.4200/-) along with reduction of the residency period for Technician C along with reduction of residency period from 6 to 5 years. The issue was taken up in Screening Committee JCM-III. In 6<sup>th</sup> CPC MCM working in Ordinance factories under the Ministry of Defence have been upgraded from grade pay of Rs.2800/- to Rs.4200/- but the grade pay of Technician C has been kept stagnant at Rs.2800/- and even the residency period for Technician C has been increased from 5 to 6 years. Difference for the intake of ITI has been kept at Rs.1900 as grade pay while for Diploma Holders the same has been kept at Rs.4200 while there is no such difference existing in other Technical Cadres as well as such difference also do not exist in unskilled / non technician cadres where even the entry level posts have been kept @ Rs.2000/- or above. They ultimately filed O.A. No. 060/00098/2014 which was disposed of on 5.2.2014 with direction to the respondents to take a view on pending representation of the applicant. However, vide order dated 30.9.2014, the claim of the applicants has been rejected, hence the O.A.

3. The respondents have filed a reply contesting the Original Application filed by the applicants. They submit that the claim is barred by law of limitation being relating to implementation of recommendations of 5<sup>th</sup> CPC w.e.f. 1.1.1996. The applicants claim higher pay scale on the ground that the incumbents of the post of Tradesman 'A' were placed at Technician 'C' at the time of Constitution of DRTC and the post of Tradesman 'A' was equal

to the post of Junior Scientific Assistant Grade II during 3<sup>rd</sup> CPC and 4<sup>th</sup> CPC. Whereas the post of JSA-II has been granted higher pay scale of Rs.5000-8000 by 5<sup>th</sup> CPC and a lower pay scale of Rs.4000-6000 was granted to the post of Technician 'C'. Prior to CDS (Revised Pay) Rules, 1997 various posts in the DRDO were merged and the DRTC was formed with the approval of Cabinet. As per the hierarchy of posts approved in DRTC, the post of Technician 'C' was to be granted pay scale of Rs.4500-7000. Accordingly, pay scale of post of Technician C had been revised vide SRO No. 77 dated 19.4.1999 and the higher pay scale of Rs.4500-7000 was granted than what was recommended by the 5<sup>th</sup> CPC. As per Civilians in Defence Services (Revised Pay) Rules, 1997, the post of Technician 'C' was to be granted revised pay scale of Rs.4000-100-6000. As per rule 6 (5) (a) of DRTC Rules, 1995, all the persons holding the 'posts of Photographer Assistant, Pharmacist, Junior Scientific Assistant-II, Tradesman 'A', Glass Blower, Draughtsman Grade-II, Senior Artist, Photographer Grade-I and Senior Computer were to be placed in Grade I of Category II (I.e. Technical Assistant "A"- provided they possessed the qualification prescribed for the post of Tech Assistant 'A' as laid down in the Schedule III (B. Sc. Or 03 years' Diploma in Engineering or Technology) failing which they were to be placed in grade III of Category I (i.e. Technician C.). All the posts which were clubbed together and placed in three grade of T.A. 'A' and Technician 'C' were having different pre-revised pay scale. In the 5<sup>th</sup> CPC, the post of Technical Assistant "A", for which the entry level qualification was B.Sc. or 03 years' diploma in Engineering or Technology, was granted pay scale of Rs.5000-8000, whereas the post of Technician 'C', whose incumbents

possessed the qualification of 10<sup>th</sup> Class and ITI, were granted pay scale of Rs.4000-6000. The post of Technician 'C' was granted higher pay scale of Rs.4500-7000 on the basis of hierarchy in DRTC. Thus, it is not possible for organization to grant higher scale to applicants at par with Technician Assistant 'A' when posts are having different entry level qualifications and the 5<sup>th</sup> CPC had recommended different pay scales for both the posts.

4. We have heard learned counsel for the parties at length and examined the material on the file.
5. Learned counsel for the applicants vehemently argued that it being a recurring cause of action, the O.A. should be held to be within the period of limitation in view of law laid down in the case of **M.R. Gupta Vs. Union of India**, AIR 1996 SC 669 and **Union of India (UOI) and Others Vs. Tarsem Singh**, Civil Appeal No. 5151-5152 of 2008 (Arising out of SLP © Nos. 3820-3821 of 2008. Learned counsel further argued that by grant of lower pay scale than Junior Scientific Assistant Grade-II, the applicants have been placed at the entry stage equal to unskilled employees though they are required to have ITI qualification with Matriculation as entry qualification. Earlier, post of Technician 'C' was designated as Tradesman 'A' which was equivalent to post of Junior Scientific Assistant-II. The said post was designated in 1995 as Technician 'C' which was equivalent to Senior Technician Assistant 'A'. However, the post of the applicants has been downgraded and anomaly continues since 1996 which is required to be removed. It is also argued that the main plea of merger of scales of HS II and HS I has been ignored by the respondents while rejecting their claim for grant of higher pay scale. It is

argued that applicants cannot be denied benefit of equal pay for equal work and that the respondents should act like a model employer and such anomalies have been removed in other cadres and as such benefit cannot be denied to the category of the applicants.

6. The learned counsel for the respondents has reiterated submissions made in the written statement.
7. A conjunctive perusal of the pleadings would disclose that the claim of the applicants for grant of Technician 'C' working in DRTC the higher grade pay of Rs.4200 as against the grade pay of Rs.2800 has been rejected vide order dated 30.9.2014 by passing a speaking order, the relevant part of which reads as under :-

"As per rule 6 (5) (a) of DRTC Rules, 1995, all the persons holding the posts of Photographer Assistant, Pharmacist, Junior Scientific Assistant-II, Tradesman 'A', Glass Blower, Draughtsman Grade-II, Senior Artist, Photographer Grade-I and Senior Computer were to be placed in Grade I of Category II (i.e. Technical Assistant 'A') provided they possessed the qualification prescribed for the post of Tech Assistant 'A' as laid down in the Schedule III (B. Sc. Or 03 years' Diploma in Engineering or Technology) failing which they were to be placed in grade III of Category I (i.e. Technician 'C'). It is pertinent to mention that all the posts which were clubbed together and placed in the grade of Technical Assistant 'A' and Technician "C" were having different pre-revised pay scales. In the 5<sup>th</sup> CPC, the post of Technical Assistant 'A', for which the entry level qualification was B.Sc. or 03 years' diploma in Engineering or Technology, was granted pay scale of Rs.5000-8000, whereas the post of Technician 'C', whose incumbents possessed the qualification of 10<sup>th</sup> Class and ITI, were granted pay scale of Rs.4000-6000. As explained in sub para (a) above, the post of Technician 'C' was granted higher pay scale of Rs.4500-7000 on the basis of hierarchy in DRTC. Thus, it is not possible for organization to grant higher scale to applicants at par with Technician Assistant 'A' when posts are having different entry level qualifications and the 5<sup>th</sup> CPC had recommended different pay scales for both the posts.

(d) That all the applicants, except Sl. No. 2,3,11,12 & 13 of the OA, joined service after formation of DRTC in 1995 and have absolutely no basis to relate back to the post of Tradesman 'A' or Junior Scientific Assistant-II.

(e) That the applicants to justify their claim have also referred to various posts like Postman in Ministry of Communication and Assistant Class II in Kolkata Mint, which were granted a lower pay scale earlier but were subsequently granted higher pay scale for various reasons by the respective departments. That some incomparable posts in other departments have been granted higher pay scale cannot form basis for grant of higher pay scale to the applicant, when the post of Technician 'C' has already been granted a higher pay scale than what was initially notified under 5<sup>th</sup> CPC.

(f) That once the applicants joined the DRTC which has attributes like merit based Flexible Complimenting Scheme of promotion and other incentive schemes, they cannot draw parallel with cadres in other departments where the promotions are vacancy based".

8. The stand taken by the respondents does not appear to be illogical or arbitrary and they have given enough reasons which are convincing for grant of pay scale that has been granted to the applicants. It is well settled law that a court of law cannot enter into domain of determination of pay scales and it is for the expert bodies like Pay Commission on the recommendations of which the competent authority acts upon. The Hon'ble Apex Court in **Union of India v. Dineshan K.K.** [(2008) 1 SCC 586], has held :-

"16. Yet again in a recent decision in State of Haryana v. Charanjit Singh a Bench of three learned Judges, while affirming the view taken by this Court in State of Haryana v. Jasmer Singh, Tilak Raj, Orissa University of Agriculture & Technology v. Manoj K. Mohanty and Govt. of W.B. v. Tarun K. Roy has reiterated that the doctrine of equal pay for equal work is not an abstract doctrine and is capable of being enforced in a court of law. Inter alia,

observing that equal pay must be for equal work of equal value and that the principle of equal pay for equal work has no mathematical application in every case, it has been held that Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who are left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. Enumerating a number of factors which may not warrant application of the principle of equal pay for equal work, it has been held that since the said principle requires consideration of various dimensions of a given job, normally the applicability of this principle must be left to be evaluated and determined by an expert body and the court should not interfere till it is satisfied that the necessary material on the basis whereof the claim is made is available on record with necessary proof and that there is equal work of equal quality and all other relevant factors are fulfilled.”

9. The principle of “equal pay for equal work” has been a subject matter of a number of decisions. A large number of factors such as educational qualification, nature of duties and responsibilities, mode of recruitment have been held to be relevant factors for determining the equivalence in the matter of fixation of scale of pay.

10. In the case of **Govt. of West Bengal v. Tarun K.Roy**, 2004 (1) SCC 347, the Hon’ble Supreme Court has held as under:

“Question of violation of Article 14 of the Constitution on the part of the State would arise only if the persons are similarly placed. Equality clause contained in Article 14, in other words, will have no application where the persons are not similarly situated or where there is a valid classification based on a reasonable differentia”.



11. In the case of **Secretary, Finance Department v West Bengal**

**Registration Service Association** [1993 Supp (1) SCC 153]

the Hon'ble Supreme Court has held as under :-

"Ordinarily a pay structure is evolved keeping in mind several factors e.g. (i) method of recruitment, (ii) level at which recruitment is made (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion (vi) the nature of duties and responsibilities (vii) the horizontal and vertical relativities with similar jobs (viii) public dealings (ix) satisfaction level (x) employer's capacity to pay etc. We have referred to these matters in some detail only to emphasize that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relatives have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well"

"There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and Court's interference is absolutely necessary to undo the injustice."

12. In the case of **State of Haryana and others v. Charanjit**

**Singh and others** [AIR 2006 SC 161], the Hon'ble Supreme Court has laid down as under:

"Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a Court of law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together,

as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by competent authority cannot be challenged. A classification based on difference in education qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities made a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body."

13. Similarly in the case of **Shyam Babu Verma and others v.**

**Union of India and others** [(1994) 2 SCC 521] the Hon'ble Supreme Court has again held as under :

“..The nature of work may be more or less the same but scale of pay may vary based on academic qualification or experience which justifies classification. The principle of “equal pay for equal work” should not be applied in a mechanical or casual manner. Classification made by a body of experts after full study and analysis of the work should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups excludes applicability of the principle of “equal pay of equal work” to them.”

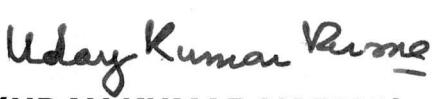
14. In the case of **U.P. State Sugar Corporation Ltd. and Anr. v. Sant Raj Singh and Ors.** AIR 2006 SC 2296, the Hon’ble Apex

Court opined that the doctrine of equal pay for equal work as adumbrated in Article 39(s) of the Constitution of India read with Article 14 thereof cannot be applied in a vacuum. The Constitutional scheme postulates equal pay for equal work for those who are equally placed in all respects. Possession of a higher qualification has all along been treated by this Court to be a valid basis for classification of two cadres of employees. 10. As per settled law there should be complete and total identity between two posts or cadres for the application of principles for equal pay for equal work. Application of principle for equal pay for equal work requires consideration of various dimensions of a given post. If there is a classification to grant a different pay scale, it cannot be considered arbitrary so as to attract judicial interference. In **State of Haryana v. Surinder Kumar** [AIR 1997 SC 2129], **M.P.R.A.E. Officers Association v. State of M.P.** [AIR 2004 SC 2020], **State of T.N. v. M.R. Alagappan** AIR 1997 SC 2006 [1997 AIR SCW 1793], **State of W.B. and others v. Deb Kumar Mukherjee and others** [AIR 1995 SC 1889] interchangeability of the two sets of employees was not

found conclusive. The claims based on the principle of "equal pay for equal work" was negated as there were other distinguishing factors in the two sets of employees.

15. In this case also, we do not find any illegality in the action taken by the respondents and the ground taken by them in the impugned order does not appear to be arbitrary or containing a classification which cannot be accepted by a court of law.
16. Even on the ground of limitation, the fact remains that the applicants were aware about grant of alleged less pay scale since 1997 itself and have taken care to file this lis with huge delay. They have not even sought quashing of any orders vide which the claimed lower pay scales were granted to them. In view of these facts, it can safely be held that the law of limitation would apply in this case as it is not a case of fixation of pay, rather grant of a higher pay scale the cause of action for which arose in 1997. There is no valid justification for filing O.A. with delay. M.A. for condonation of delay is, therefore, dismissed.
17. In view of the factual and legal position discussed above, this Original Application turns out to be devoid of any merit and is also barred by law of limitation and is dismissed accordingly.
18. The parties are left to bear their costs.

  
**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

  
**(UDAY KUMAR VARMA)**  
**MEMBER (A)**

Place: Chandigarh  
Dated: 6.12.2016

HC\*