

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

✓  
O.A/T.A No. 132/96.....

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SECTION OFFICER (Judl.)

*Sahit*  
29/1/18

DA No. 132/96

MP No. (DA)

RA No. (DA)

CP No. (DA)

Sr R. S. Ram

APPLICANT(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. B. S. Sarma Advocate for the applicant.

B. S. Sarma

Mr. G. Sarma Addl. C.G.S.C. Advocate for the Respondents.

Office Notes

File

Court's Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
PRO RD No. 345/937  
Dated 23/6/94

30.7.96

Mr S.Sarma for the applicant,  
Mr G.Sarma, Addl.C.G.S.C for the  
respondents.

The applicant a Technical Operator (Chemical) in the Geological Survey of India, N.E. Region, Shillong is drawing pay in the scale of pay of Rs.800-15-1010-EB-20-1150/- and in this application he prays for allowing him to draw pay in the pay scale of Rs.975-25-1150-EB-30-1540/- at par with Sri R.K.Poddar in terms of order dated 11.8.94 in O.A.177/94 with M.A.No.413 of 1994 of the Central Administrative Tribunal, Cuttack Bench, Cuttack.

Issue notice on the respondent to show cause as to why this application should not be admitted and the reliefs sought be allowed. Returnable on 28.8.96.

List on 28.8.96 for show cause and consideration of admission.

Steps within today.

9.8.96

Notice issued to the concerned parties on 3.8.96.

Bar

Since Reports are still awaited  
show Cause has not been filed.

27/8

Member

28.8.96

Mr. G.Sarma, Addl. C.G.S.C for respondents.

Show cause has not been submitted. Mr. Sarma seeks for adjournment.

List for show cause for consideration of admission on 17.9.96.

1) Service Reports are still awaited.

2) Show Cause has not been filed.

16/9

trd

28/8

17.9.96

Learned counsel Mr. S.Sarma for the applicant.

Mr. G.Sarma, Addl. C.G.S.C. for the respondents.

No show cause has been submitted. Heard counsel of both sides for admission. Perused the contents of the application and reliefs sought. Application is admitted. Written statement within six weeks.

List for written statement and further orders on 15.11.1996.

Pendency of this application shall not be a bar for the respondents to pay the applicant in the scale of Rs. 975-1540/-.

Member

trd

17/9

15.11.96

None for the applicants. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents.

List for written statement and further orders on 12.12.96 as submitted by Mr G. Sarma.

Member

nkm

15/11

1) Service report are still awaited.

2) written statement has not been filed.

11.12.96

(3)

O.A. 132 of 1996

12.12.96

Mr. S.Sarma for the applicant.

Mr. G.Sarma, Addl.C.G.S.C. for the respondents.

Mr. G.Sarma, Addl.C.G.S.C. seeks further time to file written statement.

List for written statement and further orders on 3.1.1997.

*ba*  
Member

trd

*File 14/12*

3.1.97

Learned counsel Mr B.K. Sharma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents again seeks time for filing written statement.

List for written statement and further orders on 24.1.97.

*ba*  
Member

*11-2-97*

*11/2*

11-2-97

- 1) Written statement has not been filed. <sup>nkm</sup>
  - 2) Service reports are still awaited.
  - 3) Appearance has not been filed by CGSC.
- 11/2*

12.2.97

Mr G.Sarma, Addl.C.G.S.C submits that he may be allowed further one month time to submit written statement. The respondents are allowed one month time to file written statement as a last chance.

List for written statement and further orders on 12.3.97.

*ba*  
Member

- 1) Service Reports are still awaited.
  - 2) No appearance by W.
  - 3) W's statement is not submitted.
- 11/3*

pg

12.3.97

Mr S.Sarma for the applicant. Mr G.Sarma for the respondents. Written statement has not been submitted.

List for written statement and further orders on 23.4.1997 as requested by Mr G.Sarma.

*ba*  
Member

- 1) Service Reports are still awaited.
  - 2) W's statement is not submitted.
  - 3) No appearance by W.
- 11/3*

pg

*11/3*



23.4.97 None present. Written statement has not been submitted.

List for written statement and further orders on 7.5.97.

Member

pg

24/4

7.5.97

List for order together with M.P. 131/97 on 14.5.97.

Member

pg

8/5

24-5-97

14.5.97

Mr S.Sarma for the applicant. Mr G. Sarma, Addl.C.G.S.C for the respondents.

Respondents have been allowed to file written statement. Written statement has been filed. Copy of the written statement served on the counsel of the applicant. Case is otherwise ready for hearing.

List for hearing on 26.5.97.

Member

pg

15/5

In terms of order

dated 14-5-97 passed in mp- 131/97 w/s filed on behalf of the respondents.

28.5.97

Mr S.Sarma for the applicant. Mr G. Sarma, learned Addl.C.G.S.C prays for adjournment to enable him to substitute certain annexures to the written statement which are not legible. He may do so before the next date.

This matter relates to fixation of pay which is not within the jurisdiction

contd..

28.5.97 of Single Bench. To be listed for hearing before Division Bench.

List for order on 13.6.97 before Division Bench.

Member

pg

16.6.97 Adjourned. List on 19.6.97.

-- By order.  
mt/16/6

19-6-97

Let this matter be listed for hearing on 30-7-97.

*ba*  
Member

*SB*  
Vice-Chairman

lm

*20/6*

30.7.97

On behalf of Mr B.K. Sharma, learned counsel for the applicant, a mention has been made for adjournment on the ground of personal difficulty of Mr B.K. Sharma. Accordingly the case is adjourned till 8.9.97.

*ba*  
Member

*SB*  
Vice-Chairman

21.8.97

1) Memo of appearance has been filed.

2) The case is ready for hearing.

*mt*  
21/8/97.

*nk*  
31/7

17.9.97

Case is ready for hearing.

List for hearing on 9.1.1998.

*ba*  
Member

*SB*  
Vice-Chairman

The case is ready for hearing

pg

*mt*  
19/9

There is no representation.

9.1.98 List on 7-4-98.

my aut.

*mt*  
21/8/97.  
DWS by *ba* filed on Respsds.

*mt*  
6/4

04 134/96

7.4.98

List on 13.7.98 for hearing.

W/s has been filed. 17

2/8  
16.7

Member

Vice-Chairman

pg

13/9

W/s has been filed. 13.7.98 Adjourn to 20.8.98.  
18 By adv

2/8  
19/8

20.8.98

On the prayer of Mr G.Sarma, learned Addl.C.G.S.C the case is adjourned to 25.8.98 for hearing.

Member

Vice-Chairman

pg

24/5

W/s has been filed.

25.8.98 Leftover Adjourn to 9.9.98.  
By adv

2/8  
21/9

9.9.98

We have heard Mr. S.Sarma, learned counsel for the applicant at some length. Mr. G.Sarma, learned Addl. C.G.S.C. appearing on behalf of the opposite parties submits that the matter has been referred to the Ministry of Mines. For that purpose he prays for time. 4 weeks time is allowed for giving clarification. Mr. S.Sarma has no objection.

List on 26.10.98.

Member

Vice-Chairman

trd

2/8  
10/9

W/s has been filed.

2/8  
23/10

26.10.98

On the prayer of Mr. G.Sarma,  
learned Addl. C.G.S.C. the case is adjourned  
till 5.11.98.

Fix on 5.11.98

Member

Vice-Chairman

trd

5.11.98

Division Bench is not available. The  
case is adjourned to 26.11.98

Vice-chairman

pg

26.11.98

Division Bench is not available.  
List on 29.12.98 for hearing.

By Order

pg

28  
26/11

29-12-98

On the prayer of Mr. S.Sarma,  
case is adjourned to 6-1-99 for  
hearing.

Member

Vice-Chairman

lm

28  
30/12/98

27.1.99

Copies of The Judgment  
have been sent to the  
D/Sec for securing the  
same to the parties  
through Regd. with A.P.

Issued vide Dispatch No.  
296 to 300 dt. 1.2.99  
5.2.99

Member

Vice-Chairman

nkm

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No.132 of 1996

DATE OF DECISION.....7.1.1999

!! Shri Radhe Shyam Ram (PETITIONER(S))

Mr B.K. Sharma

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr B.C. Pathak, Addl. C.G.S.C.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.132 of 1996

Date of decision: This the 7th day of January 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Radhe Shyam Ram  
Technical Operator (C),  
Chemical Division,  
Geological Survey of India,  
North Eastern Region, Shillong.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma

- versus -

1. The Union of India, represented by the  
Secretary to the Government of India,  
Ministry of Mines,  
New Delhi.
  2. The Deputy Director General (P),  
Geological Survey of India,  
Calcutta.
  3. The Deputy Director General,  
Geological Survey of India,  
North Eastern Region, Shillong.
  4. The Sr. Administrative Officer and  
Head of Office,  
Geological Survey of India,  
North Eastern Region, Shillong. ....Respondents
- By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

The grievance of the applicant in this application  
is in respect of his stepping up of pay.

2. The applicant was initially appointed Laboratory  
Assistant. Later on, his post was redesignated as  
Technical Operator (Chemical). According to him his pay  
has not been properly fixed. Situated thus, he submitted  
Annexure F representation dated 18.2.1996. However the  
said representation has not yet been disposed of. Hence  
the present application.

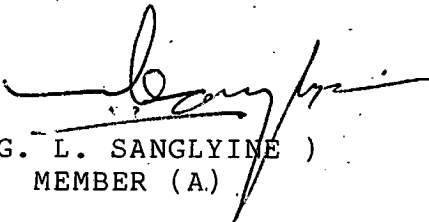
*B*


3. We have heard Mr B.K. Sharma, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C.

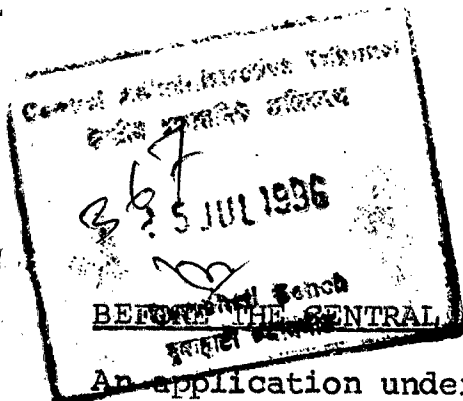
4. On hearing the learned counsel for the parties we find that certain facts are required to be examined. Therefore, we feel that the matter should be decided by the respondents by disposing of the representation already filed by the applicant. The applicant may also file an additional representation giving details of his case within one month from today. If such representation is filed within the said period the respondents shall consider that representation also. Mr Pathak has no objection if the matter is sent to the respondents for consideration.

5. Accordingly we direct the respondents to dispose of the representation already filed and the additional representation if filed within one month from today and consider the same and dispose of by a reasoned order as early as possible, at any rate within a period of three months from the date of receipt of the additional representation and if no additional representation is filed within two months from today. If the applicant is still aggrieved he may approach the appropriate authority.

6. With the above observation the application is accordingly disposed of. Considering the facts and circumstances of the case we make no order as to costs.

  
( G. L. SANGLYINE )  
MEMBER (A)

  
( D. N. BARUAH )  
VICE-CHAIRMAN



An application under section 19 of the Administrative Tribunal Act, 1985

OA NO. 132 /96

Shri Radhe Shyam Ram ....Applicant

-Vs-

The Union of India & Ors ...Respondents

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Filed by

(S.SARMA)

For use in office of CAT/GHY

Regd No. OA 132/96

Date 25-7-96

Registrar

Recd Copy  
Golap Sarma.  
AO C4SC  
CAT. GHY  
10/7/96



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH.

O.A. No. 367 of 1996.

Filed by Shyam Ram  
5.7.96

B E T W E E N.

Sri Radhe Shyam Ram  
Tech. Operator.(C),  
Chemical Division,  
G.S.I. N.E.R.  
Shillong.

.....Applicants

A N D

1. The Union of India,  
represented by the Secretary to the  
Govt of India, Ministry of Mines,  
N.Delhi.
2. Dy.Director General (P),  
Geological Surevy of India,  
4,Chowringhee Lane, Calcutta.
3. Dy.Director General,  
Geological Survey of India,  
North Eastern India, Shillong.
4. Sr. Administrative Officer,  
& Head of Office, G.S.I.,  
N.E.R., Shillong.

.....Respondents

DETAILS OF THE APPLICATION

1. Particulars of the order against which the application  
is made :-

The instant application is not made any particular order but the same is under against the deemed refusal of stepping up of pay of the applicant in respect to some of the employees who are also similarly situated with him and this application is also made against the deemed refusal in regard to his representation for step up his pay w.e.f. 1.1.96 in the light of Cuttak Bench of Central Administrative Tribunal as well as other Benches of Hon'ble Tribunal.

*M*

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he wants ~~to~~ redressal is within the jurisdiction of the Tribunal.

3. LIMITATION:-

The applicant further declares that the application is with the limitation prescribed in Sec.21 of the Administrative Tribunal, 1985.

4. FACTS:

4.1 That the applicant above named has come before this Hon'ble Tribunal by way of filing an original application under section 19 of this Administrative Tribunal Act, 1985, making a grievance against the non-co~~o~~perant attitude of the Respondents in disposing up his representation in the light of Central Administrative Tribunal, Cuttak Bench's judgement dated 11.8.94.

The applicant abovenamed urged the matter before the competent authorities i.e, the respondents as to why he should be deprived of his legitimate upgraded pay scale as has been granted by the Hon'ble Central Administrative Tribunal, Cuttak Bench and keeping in view of the same has been granted to other employees which are similarly situated as that of the applicant.

The applicant above named was pursuing the matter and finally on 18.2.96 through his representation made a categorical prayer to implement the Hon'ble ~~Tribunal~~

Cuttak Bench's judgement, keeping in mind that he is also placed at par with the applicants there in.

The applicant after his best effort when he was not granted with the up-graded pay scale and being aggrieved by the Act of the respondents has come before this Hon'ble Court by way of filing this application u/s 19 of the Administrative Tribunal Act, 1985.

The above is the crux of the matter for which this instant application has been preferred.

4.2 That the applicant is a citizen of India and at present he was serving as technical operator Chemical Division Geological Survey of India (G.S.I.) N.E. Region, Shillong. In the year 1980 i.e., in 19-12-80 the petitioner joined in the Deptt. of G.S.I. as Laboratory Assistant. It is pertinent to mention here that the said post of Laboratory attendant is now re-designated as Technical Operator (Chemical).

4.3 That the applicant recently come to know that one Sri Poddar who is at present working as Technical Operator (Chemical) in the Deptt. of G.S.I., Eastern Region, Calcutta, is drawing a pay scale of Rs 975/-25-1150-E.B.-30-1540 whereas the applicant who belongs to the same post and the same department is drawing a pay scale of Rs 800 - 15-1010-E.B.-20-1150. It is pertinent to mention here that vide office memo No. 4783/A-31016/7/ADM/ER/T/37 dt. 21.8.90 Mr. S.K. Poddar's pay was upgraded from 800 - 1150 to 995 -1540.

A copy of order dt. 21.8.90 is annexed herewith as Annexure-A.

.....5/-

-5-

4.4 That the applicant begs to state that after enquiring the matter before the authority he was told that the 4th Central Pay Commission has granted an upgraded Scale of Pay to all the lowest Grade 'C' post of G.S.I. to Rs 975 - 1540/-. He was also told that as per the 4th Central Pay Commission the unrevised scale of pay of Rs 260 to 400 of the lowest Grade 'C' Post was revised to Rs 975 to 1540 w.e.f. 1.1.86.

4.5. That some of the employees like that of applicant had approached Hon'ble Central Administrative Tribunal, Cuttak Bench making a grievance that the scale of pay may be upgraded from Rs 800 - 1150/- to 975 - 1540 by way of filing O.A. No. 177/94. On 11.8.94 the Hon'ble Central Administrative Tribunal Cuttak Bench allowed the petitioners claim of up-gradation of their scale of pay as Rs 975 - 1540 w.e.f. 1.1.86 observing that there was no dispute that the Grade 'C' Post which has been holding by the petitioners thereto has been revised to Rs 975 - 1540. The Hon'ble Central Administrative Tribunal, Cuttak Bench has also observed that one Sri R.K. Poddar has been given the pay scale of Rs 975 - 1540 w.e.f. 1.1.86 as a result of which the anomaly arose in respect of the other employees holding the same post of Technical Operator (Chemical) (redesignated).

A copy of the extract of Central Administrative Tribunal, Cuttak Bench's order dated 11.8.94 is annexed herewith and marked as Annexure-B.

5/-

R

4.5 That in pursuance of the judgement delivered by the Hon'ble Central Administrative Tribunal, Cuttak Bench in O.A. 177/94 the pay scale of following Technical Operator (Geology) has been fixed in the grade of Rs 975 - 1540 w.e.f. 1.1.86. It will be pertinent to mention here that post which is holding by the applicant is same as that of Technical Operator (Geology).

A copy of office order dated 2.5.95 is annexed herewith and marked as ANNEXURE-C.

4.6. That some employees of G.S.I. similar to that of the applicant had also approached the Jaipur Bench making a similar prayer for their upgradation in pay scales as Rs 975 - 1540 and the Hon'ble Central Administrative Tribunal, Jaipur Bench on 30.10.95 passed an order in O.A. 494/95 directing the respondents thereto dispose of the representation filed by them CAT, in the light of decision of the/Cuttak Bench.

A copy of order dt. 30.10.95 passed in O.A. No. 494/95 by the Hon'ble Central Administrative Tribunal, Jaipur Bench is annexed herewith and marked as ANNEXURE-D.

4.7 That a similar prayer was made before the Hon'ble Patna Bench by some of the employees like that of the applicant by way of filing O.A. No. 52/96. The said O.A. was taken up for hearing on 1/25.1.96 and the Hon'ble Tribunal was pleased

.....6/-

*M*

to grant similar relief as has been granted by the Hon'ble Tribunal Jaipur Bench in O.A. No. 494/95 directing the respondents to consider their matter in the light of Hon'ble Cuttak Bench order dated 11.8.94.

A Copy of order dated 1/25.1.96 passed in O.A. 52/96 is annexed herewith and marked as Annexure-E.

@.8. That having come to know about the anomaly and about the relieves granted by the other Benches in regard to upgradation of other employees like that of the applicant, the applicant made a representation on 18.2.96. In the said representation the petitioner made a prayer to grant him the revised/upgraded scale of pay Rs 975 - 1540 in the light of other Hon'ble Tribunal as well as Supreme Court's verdict.

A copy of the representation dt. 18.2.96 is annexed herewith and marked as ANNEXURE-F.

4.9 That on receipt of the representation from the applicant the Deputy Director General, G.S.I. N.E. Region, Shillong wrote to the Dy. Director General (P), G.S.I. Calcutta to sent information regarding the said upgradation vide its letter No. 7836/G-12020/1/NER/RECTT/93 dt. 21.3.96.

A Copy of the said letter dated 21.3.96 is annexed herewith and marked as ANNEXURE-G.

@.10 That the petitioner submits that after the issuance of Annexure-G letter the respondents have sat over the matter for which the applicant has suffered a lot. The applicant further

*M*

-3-

states that when he pursued the matter personally before the higher authority, the authority concerned showed that helplessness to grant the said relief without any order of this Hon'ble Tribunal - Hence this petition.

4.11 The petitioner submits that the everyday delay in financing the pay scale causes him a recurring cause of action. The petitioner further submits that it is a well settled law that when a benefit is granted to someone laying down some principles in a case, the said principles are required to be followed by the authorities in respect of the other cases and incumbents. Similarly circumstances without requiring to them to approach the doors of court again.

4.12 That the applicant has made out a prima facie case against the respondents and the applicant has filed this application bonafide and to secure the ends of justice.

4.13  
5.

GROUND FOR RELIEF WITH LEGAL PROVISION

5.1 For that the prima facie the action of the respondents depriving the applicant for his legitimate stepping up of pay in light of Hon'ble Tribunal as well as Supreme Court verdict is illegal, arbitrary and accordingly liable to be set aside and quashed.

5.2 For that it is a settled position of law that when some principles are laid down in a case, the said principles are required to be followed by the authorities in respect of other cases and incumbents similarly circumstances without requiring them to approach the Hon'ble Tribunal again but in the instant case the applicant has been deprived illegally.

*Pr*

-8-

5.3 For that it is a well settled proposition of law that the persons working a same grade should be guided by same scale of pay.

5.4 For that the law is well settled that by any means if the scale of pay is upgraded that effect of upgradation should be given to all similarly situated persons.

5.5 For that in any view of the matter the benefit of upgraded scale of pay (975 - 1540) cannot be denied to the applicants.

6.6 DETAILS OF REMEDIES SUBMITTED:-

That the applicant declare that he has exhausted the remedies available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY COURT:

The applicant further declare that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

8. RELIEFS SOUGHT FOR:-

In view of the facts and circumstances stated above the instant application be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause of causes that may be shown be pleased to grant the following reliefs.





\_\_\_\_\_

1.1.86.

@ 18% from 1.1.86.

#### 8.4 COST OF THE APPLICATION

9. INTERIM ORDER PRAYED FOR -

1540 pending disposal of this case.

10. ....

**11. PARTICULARS OF THE I.P.O.:**

i. I.P.O. No. : 8. 09. 345937

ii. Date : 23.6.96

iii. Payable at : Guwahati.

12. LIST OF ENCLOSURES :- As stated in the Index

Verification.....

*M*

VERIFICATION

I, Shri Radhe ~~Syam~~ Ram at present working as T.O. (C) Chemical Division, G.S.I. N.E.R. Shillong do hereby verify and state that the statements made in para 1 to 4 and 6 to 12 are true to my knowledge and those made in para 5 are true to my legal advice and I have not suppressed any material facts and I sign this veirification on this 4<sup>th</sup> July, 1996.

*PR*  
*Radhe*  
RADHE SYAM RAM

GOVERNMENT OF INDIA  
GEOLOGICAL SURVEY OF INDIA  
EASTERN REGION  
5 - MIDDLETON STREET  
CALCUTTA - 71.

ANNEXURE-A

No. \_\_\_\_\_/A-31016/7/Admn/ER/  
T/37.

Dated :-

C O R R I G E N D U M

In partial modification of this office order No. 955 to 990/A-31016/7/Admn/ER/T/37, dated 6.2.1990, the scale of pay shown against serial No. 2 at column 4th, in respect of Shri Ranjit Kr. Foddar, Tech. Op (Chem) may please be read as Rs. 975-25-1150-EB-30-1540/- instead of Rs. 800-15-1010-EB-20-1150/-.

Other terms and conditions will remain unaltered.

*S. K. Mahanta*  
( S. K. MAHANTA )  
SR. ADMINISTRATIVE OFFICER,  
for Dy. Director General, (Geol.),  
E.R., G.S.I.

Forwarded to the Controller of Accounts, Central Pay. & Accounts Office, Deptt. of Mines, G.S.I., 16A, Brabourne Road, Calcutta - 700001.

No. 4783/A-31016/7/Adm/ER/T/37

Dated :- 2/8/90.

Copy forwarded for information to:

1. The Dy. Director General (P), G.S.I., 4-Chowringhee Lane, Cal-700 016.
2. The Dy. Director General, Coal Wing/OME & MG/NER/C.R./N.R./W.R./S.R./A.M.S.E. Wing/Training Instt./Calcutta/Shillong/Nagpur/Lucknow/Jaipur/Hyderabad/Bangalore/Bhubaneswar.
3. The Director and Head of Office, Geo-tech. and Special Investigation/ Operations : Bihar/Orissa, G.S.I., Calcutta/Patna/Bhubaneswar.
4. The Director (Geo-Chemistry), Chemical Division, G.S.I., E.R.
5. The Liaison Officer (S.C.T.) G.S.I., E.R., Calcutta.
6. The Administrative Officer, Accounts III Sec./ Pension Sec./ S.W. Section, G.S.I., E.R., Calcutta.
- \* 7. Shri Haridas Chakraborty, Lab. Asstt. (Chem.), Geo-Chemical Divn. G.S.I., E.R., Calcutta.
- \* 8. Shri Ranjit Kr. Foddar, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta.

CONTD .....P/2.

*Attested*  
*P. S. Mahanta*  
*5/7/96*

( 2. )

- \* 9. Shri Nidhi Ram Mahato, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta.
- \* 10. Shri Laxmi Mahato, Tech. Operator (Chem.) Chemical Divn. G.S.I., E.R., Calcutta. *CPN Bihari*.
- \* 11. Shri Ashit Baran Jana, Tech. Operator (Chem.) Chemical Divn. G.S.I., E.R., Calcutta. *CPN Anand*.
- \* 12. Shri Kangali Bhanja, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta. *CPN Anand*.
- \* 13. Shri Gundicha Rout, Tech Operator (Chem), Chemical Divn. G.S.I., E.R., Calcutta. *CPN Anand*.
- \* 14. Shri G. Nandyya, Tech. Operator (Chem.) Chemical Divn. G.S.I., E.R., Calcutta. *CPN Anand*.
- \* 15. Shri Gobinda Majhi, Tech. Operator (Chem) Chemical Divn. G.S.I., E.R., Calcutta. *CPN Anand*.
- \* 16. Shri Pradip Paswan, Tech. Operator (Chem), Chemical Divn. G.S.I., E.R., Calcutta. *CPN Bihari*.
- \* 17. Shri R.S. Sahani, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta. *CPN Bihari*.
- \* 18. Shri Rajmangal Singh, Tech. Operator (Chem.) Chemical Divn. G.S.I., E.R., Calcutta. *CPN Bihari, Pakh*.
- \* 19. Shri Haripada Mondal, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta.
- \* 20. Shri Swapan Kr. Manna, Tech. Operator (Chem.), Chemical Divn. G.S.I., E.R., Calcutta.
- 21. The General Secretary, G.S.I.E.A. ( M.K.B. Group)/ G.S.I.S.U. E.R. G.S.I., Calcutta.
- 22. The Guard File.

23

\* In case there is any re-employed Ex-Serviceman amongst the candidates from Sl. No. 7 to 20 above and he desires to take advantage of retirement benefits on combined military and Civil services, he should exercise option for counting past military service towards civil pension within a period of one month from the date of issue of order of confirmation.

*S. K. Mahanta*  
 ( S. K. MAHANTA )  
 SR. ADMINISTRATIVE OFFICER,  
 for Dy. Director General, (Geol.),  
 Eastern Region,  
 Geological Survey of India.

*Amal*  
*5/7/96*

CENTRAL ADMINISTRATIVE TRIBUNAL : CUTTACK BENCH.  
CUTTACK.

ORIGINAL APPLICATION NO. 177 of 1994.

With M.A. No. 413 of 1994.

Date of Order : 11.8.94.

ORDER ::

The prayer for time to file counter made in MaA. 413 of 1994 dated 22.7.94 by respondent's counsel Mr. Akshya Kumar Mishra is rejected as notices ~~xxx~~ were already served on 6.4.94 after filing of this petition and so far no counter has been filed.

2. This is a simple case in which the petitioners in Group 'C' post born in Class III service as Technical Operator have claimed arrear / salary fixed in the Grade of Rs. 975 - 1540/- with effect from 1.1.86. The circumstances under which this petitioner came to file have been stated all along in the petition. A selection committee consisting of Administrative Officer, Senior Geologist and Senior Officers conducted the interview. The applicant were selected and were appointed in August 1984 and in November 1985 respectively. Rs 196 - 230/- and Rs. 210 - 290/- were coming under Group 'D' service. These scales were revised to Rs. 780 - 940/- and Rs. 800 - 1150/- with effect from 1.1.86. The unrevised scale of pay of Rs 260 - 400/- of the lowest Group 'C' post was revised to Rs 975- 1540/- with effect from 1.1.86. The fact of upgradation of Section Cutter Technical and Laboratory Attendants to Group 'C'

amended  
B. S. S.  
5.7.86

(Class III) was not placed before the Fourth Pay Commission and consequently the pay Commission was under the impression that the same posts continued under Group 'D' service. A demand was made by the petitioner to pay the scale of Group 'C' service but that was not acceded to contending that the 4th Pay Commission was being ~~made~~ contemplated.

3. An analogy has been drawn from the case of Shri Ranjit Kumar Poddar, Technical Operator (Chemistry) whose <sup>un</sup>revised pay was Rs. 210 - 270/- and was given the pay scale of Rs 975 - 1540/- , though it was stated that he was given such pay scale after redesignation as 'Technical Operator'.

4. Annexure- A/1. and Annexure- A/2. were read over to us by the learned counsel for the petitioner and the names of the applicants do not find place in Annexure-A/1. for the reason that they are directly selected. The applicants herein now claim that in view of the facts stated in paragraph 4 of the petition, they are entitled to the scale of pay of Rs. 975 - 1540/- with effect from 1.1.86

Those facts contained in para 4 have been substantially reflect to above. We donot find any dispute on the part of the respondents because it is a fact that pay scale of Group 'C' (posts has been revised to Rs. 975-1540/- with effect from 1.1.86. As, such if that be the position, there is no reason why the applicants should be denied this pay scale which they have been claiming

Attended  
Ranbir  
Havali  
577/98

with effect from 1.1.86.

5. For the grounds stated above and contained in the petition, we are satisfied that non-sanction of the pay to the applicants is unjust and calls for interference. In this circumstances, we direct the respondents to give the pay scale of Rs. 975-1540/- to the applicants with effect from 1.1.86. and the entire process be completed within one month from the date of this order. No costs.

6. Copy of the order shall be delivered to the applicant's counsel as well as Learned Addl. Standing counsel (Central) for the respondents.

OFFICE SEAL :

.....

Sd/- D.P.Hiremath  
Vice-Chairman.

Sd/- H.Rajendra Prasad.  
Member (Admn).

*Attended  
By Secy  
Advocate  
5/7/86*

## GOVERNMENT OF INDIA

NO \_\_\_\_\_/18036/1/Vig/CAT case/94

the 2nd, May 1995

GEOLOGICAL SURVEY OF INDIA,  
Eastern Region,  
MSO, Building.  
Salt Lake, Calcutta

OFFICE ORDER

In pursuance of the judgement delivered by the Hon'ble Central Administrative Tribunal, Cuttack on 11.8.94 in the case O.A. No. 177/1994 the pay scale of the following Technical Operator (Geology) are fixed in the grade of Rs 975/- - 1540/- with effect from 1.1.1986.

- a) Shri Bhagawat Behera, Tech.Operator(Geology)
- b) Shri Balaram Bal, Technical Operator(Geology)

(Dr. S.K. Mazumdar)  
Dy. Director General &  
Head of the Deptt.  
Geological Survey of India,  
Eastern Region.

No.284/18036/1Vig/CAT case/94

the 2nd May, 1995

## Copy to:-

- 1) Shri Bhagawat Behera, Tech.Operator(Geology), GSI  
Op: Orissa, Bhubaneswar.
- 2) Shri Balaram Ball, Tech.Operator (Geology), GSI,  
Op: Orissa, Bhubaneswar.
- 3) The Director General, ~~EX~~ GSI (Attn: Shri D.B. Dimri)  
27, J.L.Nehru Road, Calcutta.
- 4) The Deputy Director General (P), GSI, 4, Chowringhee Lane,  
Calcutta
- 5) The Dy. Director General, Op: Orissa, GSI, Bhubaneswar.
- 6) The Registrar, Central Administrative Tribunal,  
Cuttack Bench, Cuttack, (through special messenger)

Sd/- 2.5.95

(DR. S.K. MAZUMDAR)  
Dy. Director General & Head  
of the Deptt.,  
Geological Survey of India,  
Eastern Region.



**ANNEXURE - D**

- 17 -

**ANNEXURE - D**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH Jaipur.

O.A. 494/95

Date of Decision : 30.10.95

Birdhi Chand, Chaturbhuj, Gokul Singh, Satya Narayan Shamma  
Raghuvir Singh, K.N.V. Nayyar, Bhagwana Ram, Seva Lal, Goverdhan  
Lal, Prem Chand, Govind Ram Nathu Lal, Mohan Lal, Ram Swaroop,  
Manish Pandrey and Mohd. Aljaz .

....APPLICANTS

-VERSUS-

Union of India & Ors

....RESPONDENTS

CORAM:

HON'BLE MR GOP AL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, MEMBER (A)

For the applicants

...

....Mr. Kunal Rawat

For the Respondents

...

----

**ORDER**

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicants, named above, have prayed in this application u/s 19 of the Administrative Tribunals Act, 1985, for a direction to the respondents to grant pay scale of Group-C to them as per the 4th Central Pay Commission w.e.f. 1.1.86 as also for a direction to refix them in the pay scale of Rs 975/- 1540 instead of Rs 800 - 1150, as allowed in the case of Balu Ram Ram Bal and Bhagat Behera w.e.f. 1.1.86

2. We have heard the learned counsel for the applicants and have perused the records.

3. The learned counsel for the applicants states that the representation in this behalf, at Annexure A-6 dated 3.7.95 on the subject of upgradation of pay scale of Technical Operator (CHEM) has not been decided by the respondents and he, therefore, wants the same to be decided keeping in view the decision of the Cuttack Bench of the Tribunal in OA 177/94 read

....2/-

*amended  
B...  
A...  
5/7/96*

with MA 413/94 dated 11.8.94.

4. We, therefore, dispose of this OA at this stage of admission with a direction the respondents to decide the representation at Annexure A-6 dated 3.7.95 keeping in view the order of the Cuttack Bench of the Tribunal in OA 177/94 dated 11.8.94, at Annexure A-4, within three months from the date of receipt of a copy of this order. Let a copy of the OA alongwith the paper book and the representation alongwith a copy of Annexure A-4 be sent to the Deputy Director General, Geological Survey of India, Western Region, Jhalana Doongri Complex Office Complex, Jaipur (Respondent No.3) The applicants may file a fresh OA if they are aggrieved by the decision taken on their representation.

Sd/-

(O.P. SHARMA)

(GOPAL KRISHNA)

MEMBER (A)

VICE CHAIRMAN

*Amended  
Bench  
#280/94  
5/7/96*

.....

CENTRAL ADMINISTRATIVE TRIBUNAL,  
PATNA BENCH: PATNA

Mr. Pradip Paswan &amp; Ors. .... Applicants

-Vs-

Union of India &amp; Ors ..... Respondents

Registration No. OA: 52/96

PRESENT

HON'BLE MR. N. SAHU, Member (A)

ORDER

1/25.1.96

In this application the relief prayed is grant of pay scale- scale of Gr. C as per the recommendations of the Fourth/Central Pay Commission, w.e.f. 01.01.1986. Most specifically the prayer is to issue the respondents, to refix the pay-scale of petitioners in the pay scale of Rs 975/- 1540/- instead of 800 - 1150/- w.e.f. 1.1.86. It is submitted before the time of hearing that this point has already been covered by the decision of the Cuttak Bench in OA. 177/94, read with MA 113/94. The order of the Cuttak Bench is dated 11.8.94. The Cuttak Bench directed the respondents to give the pay scale of Rs 975 - 1540/- to the applicants w.e.f. 01.01.1986. The learned counsel has also brought to my notice the decision of the Jaipur Bench which is Annexure-7 in O.A. 494/95 dtd. 30.10.95. Following the decision of the Cuttak Bench, the Vice Chairman of Jaipur Bench in a Division Bench directed the respondents to decide the representation of the applicant in that case keeping in view of the order of the Cuttak Bench of the Tribunal referred to above.

.....2/-

attested  
Bench  
Advocate  
5/1/96

2. Learned Counsel Shri S .K. Bariar also submits that the review p etition against the order of the Cuttak Bench has been dismissed vide Annexure 4/F and SLP filed before the Hon'ble Supreme Court has also been dismissed vide Annexure-5. As the decision of the Cuttak Bench has achieved finality it is binding and therefore shall be implemented.

3. After explaining the case, Shri Bariar submitted that he would be satisfied if his representation is considered in the light of the decision of Cuttak Bench. At para 4.13 of the petition it is stated that the p etitioners made several representations before the Director I/C by a letter dated 10.11.95 Annexure-9. The petitioners was informed bhat his representations dated 20.10.95 is sent for consideration to Deputy Director Eastern Re gion, Geological Survey of India.

4. It is appropriate therefore to dispose of this application by a suitable direction to the respondents. It is also relevant to mention here that the petitioners were declared as Group 'C' Technical and re-designated as Technical Operator (Chem) w.ef. 20.12.1980. This was subsequently confirmed by the Dy. Director Eastern Region w.e.f. 01.04.1988.

5. In view of the above, respondent No.3 Dy.Director Eastern Region, Geological Survey of India, Calcutta is hereby directed to dispose of the applicant's representations in this regard within a period of two months from the date of receipt this order in the light of decision of the CAT? Cuttak Bench, referred to above.

....3/-

attested  
R. S. Bariar  
Advocate  
5/7/96

With this observation, this application is disposed of.

Let a copy of this order be handed over to the Learned Counsel for the applicant and to Shri R.K. Choubey, junior to Shri J.N. Pandey, Learned Sr. Standing Counsel for the respondents, who is at present in the court.

Sd/-

(N.Sahu)  
Member (A)

*amited.  
B. N. S.  
Admch.  
5/7/96*

Office Seal

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- 22 -

**ANNEXURE- F**

Dated the 18th Feb. 1996

To,

The Dy. Director General,  
Geological Survey of India,  
North Eastern Region,  
Shillong.

(Through : Proper Channel)

Sub:- Upgradation of pay scale of Tech. Operator (C) & (G).

Sir,

Kindly refer the letter No. 10/75/95-M.II(P), New Delhi dated 23rd May, 1995. Shri R.K. Poddar was initially appointed as Tech. Operator (G) in my grade, but he was later awarded the higher pay scale of Rs 975/- to Rs 1540/- as per Dy. Pay Commission, the office knows it well.

I request your honour kindly grant me the scale pay at par with Shri R.K. Poddar & other two Tech. Operator (G). Hence the duties discharged by them & I was the same. Kindly implement the same in order to avoid the CAT cases. Since Shri Poddar and two other T.O. (G) has already been granted the same pay scale Rs 975/- 1540/- it would be a justice by the Deptt. to all the employees in the same scale pay. As such the whole was reviewed several time from CAT & the Supreme Court.

Therefore, I request you to implement scale pay of T.O.(C) . Early action is requested in the matter.

Thanking you,

Yours faithfully,

(Radhe Shyam Ram)  
Tech. Operator (C)  
Chemical Division,  
GSI, NER, Shillong.

*Amish  
for  
Adv.  
5/2/96*

Copy to : GSIEA, R.No. 822, Shillong

(Radhe Shyam Ram)  
Tech. Operator (C)  
Chemical Division,  
GSI, NER, Shillong.

## GOVERNMENT OF INDIA

No. \_\_\_\_\_/G-12020/1/NER/Rectt/95

Dated, the \_\_\_\_\_th  
March'1996.

From:

The Deputy Director General,  
Geonological Survey Of India,  
North Eastern Region,  
Shillong.

To;

The Dy. Director  
General (P)  
Gelological Survey of  
India,  
4, Chowringhee Lane,  
Calcutta-16.Sub: Upgradation of Pay Scale of Technical  
Operator (Chemical/Geology).

Sir,

I am enclosing herewith a representation received from Shri Radhe Shyam Ram, Technical Operator (Chemical) on the above subject which is self explanatory for clarification at your end. Similarly, in the case of Technical Operator (Geology), their existing pay scale if Rs 800-1150/- A copy of the letter No.10/75/94 (M)/II(P), New Delhi dt. 23.05.95 quoted by Shri Radhe Shyam Ram, may please be sent to this office for information.

Encl:- As above

(D.T.SIIEMLIEH)  
Sr. Administrative Officer &  
Head of Office,

for Dy. Director General,

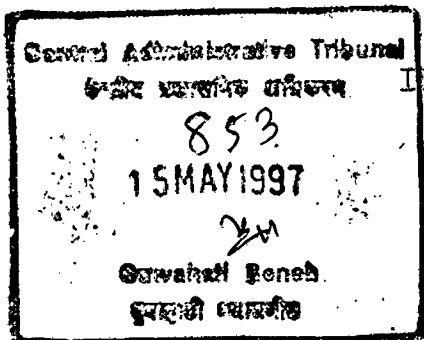
No. 7836/G-12020/1/NER/Rectt./93.,

Dt. the 21st March'96

Copy to :-

1. Shri Radhe Shyam Ram, Technical Operator (Chemical) for information

(D.T.SIIEMLIEH)  
Sr. Administrative Officer &  
Head of Office  
for Dy. Director General,  
GSI, NER, Shillong.amended  
By  
5/7/96



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A.No.132/96

Shri Radheshyam Ram ....Applicants.

-Vs-

& Ors

Union of India and others...Respondents.

-And-

In the matter of :

Written Statement on behalf of  
the Respondents.

I, Shri D.T.Syiemlieh, Senior Administrative Officer, Geological Survey of India,NER, Shillong,being the respondent No.4 in the above noted case do hereby solemnly affirm and declare as follows :-

1. That a copy of application alongwith an order passed by this Hon'ble Tribunal have been served upon the respondents and myself being authorised to file the written statement do hereby file it on behalf of myself and also on behalf of respondent No.1,2&3 and say categorically that save and except what is admitted in this written statement rest may be treated as total denial by the respondents. Before I go for para-wise.....

Copy could not be served upon the advocate as not available. It will be served as and when the Advocate is available.  
Savarna  
20/5/97  
6/5/97

Do 16 neigun  
15/5/97

24  
B.F.  
File by Savarna  
Additional Central Govt  
Standing Council  
Central Administrative Tribunal  
Guwahati Bench.  
6/5/97



parawise statement, a back ground note of the case is incorporated in this written statement as "Back Ground History of the Case" and this will supplement the written statement.

"Back Ground History of the Case"

In the first instance, how the posts of Technical Operator(Chemical) and Technical Operator(Geology) came into existence is given below :-

i) The post of Technical Operator(Chemical) and Technical Operator(Geology) came into existence in Geological Survey of India as a result of merger and redesignation of a number of posts as tabulated below. Their pay scales as per the recommendations of the third pay commission vis-a-vis their status(Classification) alongwith sanctioned strength are given below in a tabular form :-

Details of pre.merged grade.

Sl No	Name of the 'pre-merged grade	'Scale of pay	'Classi- fication /status	'Sanc- tion- ed. post	'Name of 'merged grade	'Scale of pay	'Class -ific -ation	'San ctio -ned post
<u>CHEMICAL STREAM</u>								
1.	Laboratory Operator(Chem)	260-430	Group C	15	Technical Operator(Chem)	210-290	Gr. C	119
2.	Laboratory Attendant	210-270	Group D	71				
3.	Technical Attendant	210-270	Group C	33				
<u>GEOLOGY STREAM</u>								
1.	Museum Attendant	210-290	Group C	5	Technical Operator(Geol.)	210-290	Gr. C	73
2.	Section Cutter	210-290	Group D	68				

ii) The sanctioned strength in the grade of Technical Operator(Chem.) is now 144 as 6 and 19 additional posts

have.....

have been created by the government in 1981 and 1982 respectively in this grade. Further the sanctioned strength in the grade of Technical Operator(Geology) is now 101 as 28 additional posts have been sanctioned by the government in 1982.

iii) That the Ministry of Steel and Mines, Department of Mines vide their letter No.A-11019/2/78-M.2 dated 24.8.78, copy of which is annexed as Annexure R.I, approved the aforesaid merger. The merger was made effective from 20.12.80 as the orders of the Ministry vide Annexure R.II, III and IV.

iv) That the Fourth Pay Commission recommended the corresponding pay scale of Rs.800-1150 for the pre-revised scale of pay of Rs.210-290 attached to Technical Operators (Chemical) and Technical Operator(Geol.).

A copy of the Recruitment rules for the post of Tech.Operator (Geology) and Technical Operator(Chemical) is attached as Annexure R.V.

2. That with regard to the contents made in paragraphs 1,2 and 3 of the application, I have nothing to comment.

3. That with regard to the contents made in paragraph 4.1 of the application, I beg to state that question of any non sailent attitude of the respondents does not arise as the order dated 11.8.94 of Cuttack Bench has been fully implemented in the light of Ministry's order dated 23.5.95.

Contd.....

4. That with regard to the contents made in paragraph 4.2, I beg to state that the applicant Shri Radheshyam Ram joined the North Eastern Region in 1981. with date of appointment 19.12.1980 as Laboratory Attendant which has been merged and redesignated as Technical Operator(Chem) and not 'Laboratory Assistant' as mentioned by the applicants.

5. That with regard to the contents made in paragraph 4.3, I beg to state that it has already been stated in 'Back ground History of the case' above that the post of Laboratory Attendant(Group-D), Technical Attendant(Group-D) both in the scale of Rs.210-270 were merged with the post of Laboratory Operator(Chem)(Gr.C) in the pre-revised scale of Rs.260-430 and redesignated as Technical Operator(Chem)(Gr.C) in the scale of Rs.210-290 (pre-revised) which has been revised to the scale of Rs.800-1150 by the Central Fourth Pay Commission.

Before merger, Shri R.K.Poddar (the name quoted by the applicant) was holding the pre-merged grade of Laboratory Operator(Chem) in the pre-revised scale of Rs.260-430 which was merged and redesignated as Technical Operator (Chem) in the pre-revised scale of Rs.210-290 revised to Rs.800-1150 by the Central Fourth Pay Commission. As revised pay scale of Rs.260-430 is Rs.975-1540 as per the recommendation of Central Fourth Pay Commission, Shri Poddar is drawing Personal Pay in the same scale but the pay scale of Technical Operator (Chem) i.e. Rs.800-1150 to make his pay equivalent to the scale of Rs.975-1540/-.

Contd.....

6. That with regard to the contents made in paragraph 4.4 of the application, I beg to state that it is not a fact that the Central Fourth Pay Commission has granted the minimum scale of pay Rs.975-1540/- to all the lowest Group 'C' posts w.e.f. 1.1.86. The scale quoted by the applicant i.e. 260-400/- has been revised to Rs.950-1500 applicable in the grades of L.D.C., Driver Ordinary Grade etc. and not Rs.975-1540/-. Further, there are other scales below Rs.975-1540 in Geological Survey of India like Rs.825-1200/- as well as Rs.800-1150/- applicable to the applicant.

7. That with regard to the contents made in paragraph 4.5, I beg to state that before taking into account the decision of the Cuttack Bench, the following relevant points are furnished below for consideration:-

On receipt of the case for upgradation of pay scale of Technical Operator(Geology) and Technical Operator(Chem) the same was referred to the Ministry. In this connection a copy of the Ministry's letter No.A-26022/6/87-M.II dated 27.4.88 is enclosed herewith and marked as Annexure R.VI.

A similar petition was filed by the applicants holding the post of Technical Operator(Geology) and Tech. Operator (Chem) before the Hon'ble Tribunal, Calcutta Bench vide O.A.No.1009/87 which was dismissed by the Hon'ble Tribunal on 31.7.90.

A copy of the said judgement is enclosed herewith and same is marked as Annexure R.VII.

Contd.....

A similar petition was again filed by some officials before the Hon'ble Tribunal, Bangalore vide Application No.1153 to 1164/88(F). That Hon'ble Bench also dismissed the application. Item No.30 of the said judgement dated 21.3.89 is quoted below :-

"Viewed as a whole, we are satisfied that no injustice has been caused to the applicants in assigning them the revised pay scale in the posts of Technical Operators. We, therefore, dismiss these applications as devoid of merit. With no order, however as to costs."

A copy of the said judgement dated 21.3.89 passed by the Hon'ble Tribunal, Bangalore is annexed herewith and marked as Annexure R.VIII.

Another case took place before the Hon'ble Tribunal, Calcutta Bench vide O.A?No.142/91. The Hon'ble Tribunal vide it's judgement dated 1.12.94 referred the case to the Larger Bench to decide the two questions :-

- i) Whether the present applicants are entitled to get the higher pay scale of Rs.975-1540/- w.e.f.1.1.86? and
- ii) Whether the orders of the Department of Mines dated 27.4.88 as shown in Annexure R.VI to the applicants are liable to be quashed ?

A copy of the said judgement dated 1.12.94 is annexed herewith and marked as Annexure R.IX.

Contd.....

The Larger Bench vide their judgement dated 3.1.95 directed the respondent to refer the case to the Central Fifth Pay Commission.

A copy of the judgement dated 3.1.95 is annexed herewith and marked as Annexure R.X.

Accordingly, Geological Survey of India referred the case to Central Fifth Pay Commission vide letter No.A-11026/88/16A-1 dated 3.4.95, copy of which is annexed herewith as Annexure R.XI. However, the Fifth Central Pay Commission on its report on Vol.II page 1281 and 1283 already taken into consideration, the anomalies in the Pay Scales of Technical Operator who have been classified as Group 'C' have been offered Group 'D' pay scale of Rs.800-1150. The Fifth Pay Commission vide paragraph 76.14 page 1284 and 1285 Vol.II has recommended that Technical Operator may be placed in the scale of Rs.950-1500/-(old scale)-at entry and redesignated as Laboratory Asstt.III.

Copy annexed as Annexure R.XII.

The proposed scales of pay recommended by the Fifth Central Pay Commission in Vol.III. Annex is enclosed as Annexure R.XIII. The recommendation of the Fifth Central Pay Commission is under consideration of the Government of India.

Further, it is confirmed that S/Shri Bhagabat Behara and Balaram Bal, Technical Operator(Geology) attached to Opn. Orissa, Bhubaneswar under Eastern Region filed case before the Central Administrative Tribunal, Cuttack Bench vide O.A.No.177/94. The said Hon'ble Tribunal delivered the judgement in favour of them to

revise.....

revise the scale of pay from Rs.800-1150/- to Rs.975-1540/- w.e.f. 1.1.86. Both the incumbents are drawing the pay as per the judgement of Cuttack Bench. After rejection of SLP, a proposal was sent to the Ministry vide letter No.3/1(971)/Law-59/94 dated 28.4.95, copy of which is annexed herewith and marked as Annexure RXIV. In reply to the said letter dated 28.4.95 the Ministry has decided to implement the revised pay scale of Rs.975-1540/- only to S/Shri Bhagabat Behara and Balaram Bal with effect from 1.1.86 as personal personal to them vide Ministry's letter No.10/75/94-M.II(P) dated 23.5.95 and 10/75/94-M.II(P) dated 3.7.95, copies of which are annexed herewith and marked as Annexure R.XV and Annexure R.XVI respectively. The said Ministry's letter dated 23.4.95 states that the other Technical Operators(Geol) in Geological Survey of India will continue to draw the scale of pay of Rs.800-1150/- as already sanctioned. Accordingly, both Shri Behara and Shri Bal are drawing their pay in the scale of Rs.975-1540/- in their personal capacity.

8. That with regard to the contents made in paragraph 4.6, a copy of this office letter No.3/1(1063)/Law-59/96 dated 19.1.96 annexed herewith and marked as Annexure R.XVII & XVIII regarding implementation of judgement in O.A.No.494/95 of Central Administrative Tribunal, Jaipur Bench.

9. That with regards to the contents made in paragraph 4.7 of the application, I beg to state that it is admitted.....

admitted that some of the employees like that of the applicant filed an Original Application No.52/96 in Patna Bench of the Hon'ble Tribunal praying for disposal of the representations submitted by them for granting higher scale in the light of order passed in O.A.No.177/94 by the Hon'ble Cuttack Bench of the Tribunal. The Hon'ble Central Administrative Tribunal, Patna Bench in its order dated 2.5.95 ordered the Geological Survey of India to dispose of ~~two~~ the applicants representations within a period of two months from the date of receipt of the order in the light of decision of Hon'ble Central Administrative Tribunal, Cuttack Bench in OA No.177/94. In compliance with the Hon'ble Tribunal, Patna Bench order, the Geological Survey of India disposed of the representation submitted by the applicants within the stipulated time. It is pertinent to mention that in another similar case filed by Shri A.B.Jena in the Central Administrative Tribunal, Single Bench of Cuttack as under :-

"I am of the view that the decision of the full Bench of this Tribunal is binding on me. The Full Bench has expressly declared that the Cuttack Bench case was wrongly decided. It upheld the Bangalore Bench decision."

A copy of the said order is annexed herewith and marked as Annexure R.XIX.

Contd.....



10. That with regard to the contents made in paragraphs 5.1 to 5.5 of the application, I have nothing to comment being law points.

11. That with regard to the contents made in paragraph 8 of the application, I beg to state that in view of the statements made above no relief can be granted to the applicants.

12. That the present application is ill-conceived of law and mis-conceived of facts, hence liable to be dismissed.

13. That the present application lacks of merit and hence same is liable to be dismissed.

14. That the Respondents crave leave of filing additional written statement if the Hon'ble Tribunal so directs.

15. That this Written Statement is filed bonafide and in the interest of justice.

Verification .....


(11)

44

V E R I F I C A T I O N

I, Shri D.T.Syiemlieh, son of late D.N.Roy, aged 46 years, presently working as Senior Administrative Officer, Geological Survey of India,NER, Shillong do hereby solemnly affirm and verify that the contents made in paragraph 1 of this Written Statement are true to my knowledge and those made from paragraph 2 to 11 including 'back ground history of the case' are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

AND I sign this Verification on this 6<sup>th</sup> day of May,1997 at

  
Dependent  
**DT SYIEMLIEH**  
Senior Administrative Officer and  
Additional Officer  
Office of the  
St. N. R. Shillong

81M1/R

//COPY//

GOVERNMENT OF INDIA  
Ministry of Steel and Mines  
Department of Mines

New Delhi, the 24th Aug.'78

No. A-11019/2/78-M.2

To  
The Director General,  
Geological Survey of India,  
Calcutta.Subject : Restructuring of Geological Survey of India - Merger and  
revision of scales of Pay of Group C and D posts.

Sir,

In pursuance of the recommendations of the GSI Review Committee to rationalise pay scales and cadres of Group C and D posts, I am directed to convey the sanction of the President to the Merger/redesignation and revision of the pay scales of the various categories of Group C and D posts in the Geological Survey of India as indicated in the enclosed statement.

2. The present incumbents of the posts, the scales of which have been revised, may be allowed to exercise option to retain the existing scale of the post under F 23.

3. The sanction takes effect from the date of the issue of this letter.

4. This issues with the concurrence of the Ministry of Finance vide their U.O.No.5913 E.III(A)/78 dated 19.8.1978.

Yours faithfully,

Sd/-

K.N.Nayar

Under Secretary to the Govt. of India

- Copy to :
- 1) The Pay and Accounts Officer, Geological Survey of India, Calcutta.
  - 2) Ministry of Finance (Department of Expenditure, E.III(A) Section)
  - 3) I. F. Section, with reference to their No.2745/78-IF dt.26.6.1978
  - 4) Controller of Accounts, Department of Mines, New Delhi.
  - 5) P. Secretary.

Sd/- K.N.Nayar

Under Secretary to the Govt. of India

(13) 36 ①

STATEMENT SHOWING THE POSTS INVOLVING MERGER/REDESIGNATION  
AND REVISION OF SCALE OF PAY.

Existing Designation	Existing Scale of pay (Rs.)	Revised Designation	Revised scale of pay (Rs.)
1	2	3	4
<u>G E O L O G Y</u> <u>S T R E A M</u>			
Sr. Tech. Asstt. (Geology)	550/-900/-	Sr. Tech. Asstt (Geol.)	550-25-750-EB-30-900
Sr. Tech. Asstt. (Pet/Pal)			
Jr. Tech. Asstt. (Geol.)	425-700/-	Jr. Tech. Asstt. (Geology)	425-15-300-EB-15-560-20 700/-
Tech. Asstt. (Pet/Pal)			
Laboratory Asstt. (Pet/Pal)	380-480/-		
Laboratory Asstt. Museum (Pet/Pal)	330-480/-	Laboratory Asstt (Geol.)	330-10-380-EB-12-500-EB- 15-560/-
Head Section Cutter	330-480/-		
Museum Attdt. Section Cutter	210-290/-	Technical Operator (Geol.)	210-4-226-EB-4-250-EB- 5-290/-

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(4) 37

**STATEMENT SHOWING THE POSTS INVOLVING MERGER/REDESIGNATION  
AND REVISION OF SCALE OF PAY**

**CHEMICAL STREAM**

Existing Designation	Existing scale of pay ( Rs. )	Revised Designation	Revised scale of pay( Rs. )
1	2	3	4
Sr. Tech. Asstt. (Chemical)	550-900/-	Sr. Tech. Asstt (Chem)	550-25-750-EB- 30-900/-
Jr T.A. (Chem.)   Glass Blower	425-700/-	Jr. T. A (Chem)	425-15-500-EB-15-560 -20-700/-
Laboratory Asstt. <del>Operator</del> (Chem)	Laboratory 380-560/-	Laboratory Asstt.	380-12-500-EB-15-800
Laboratory Operator (Chem.)	260-430/-	Laboratory Asstt.	
Tech Attdt. (Lab.)	210-270/-	Tech. Operator	210-4-226-EB-4-250- EB-5-290/-
Laboratory Attdt.	210-270/-		

38  
Annexure II  
50

(15)

GOVERNMENT OF INDIA  
Ministry of Steel and Mines  
Department of Mines

No. A-11011/171/78-M. 2 ,

New Delhi , 20th June , 1979 .

To

The Director General ,  
Geological Survey of India ,  
Calcutta .

Subject :- Restructuring of Geological Survey of India ,  
merger and revision of scales of pay of  
Group C and D posts .

Sir ,

I am directed to refer to your letter No. B(111)/78-80 , dated 18th March , 1979 , and to say that consequent upon the merger of certain group C & D cadres of G.S.I., vide this Ministry's letter No. A-11019/2/78 - M. 2 , dated 24th Aug., 1978 , it is necessary to revise the Department Rules for the merged cadres and prepare revised seniority list . Till such a revision is carried out , it is not possible to fill up the vacant posts in these affected cadres . A revision of the Recruitment Rules of the large number of affected cadres will take considerable time . Since a large number of Group C & D posts are vacant , and this adversely affecting the working of GSI, it is necessary to hold the merger order in abeyance till much time as these posts can be filled up . In the circumstances , the President is pleased to order that This Ministry's Order No. A-11019/2/78/M. 2 , dated 24.8.78 be held in abeyance for one year .

Immediate action may kindly be taken to fill up the vacant posts of Group C & D cadres .

Yours faithfully ,

Sd/-

( J.A. Chaudhary )  
Deputy Secretary to the Government of India .

139  
ANNEXURE III

Pl. Circulate  
16A  
V. URGENT  
63/9/80

Government of India  
Ministry of Steel and Mines  
Department of Mines

No. J-11011/171/73-M.2 New Delhi, the 26th Aug., 1980.

To

The Director General,  
Geological Survey of India  
Calcutta.

Sub: Merger of Group C and D Cadres in the  
Geological Survey of India- keeping in  
abeyance the merger order.

Sir,

I am directed to refer to Sri V.S. Krishnaswamy's D.O. letter No. 707M/A-12018/2/79/16A, dated 2nd May, 1980, on the subject mentioned above, and to say that in view of the position explained therein, the President is pleased to decide that the merger orders issued vide this Ministry's letter No. A-11019/2/78-M.2, dated 24th Aug., 1978 be kept in abeyance for a further period of six months w.e.f. 20-6-80. In the meantime, Director General should take immediate steps to finalise the seniority lists for all the merged cadres of Geological Survey of India.

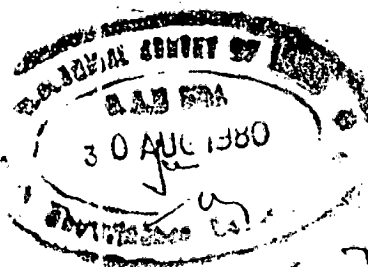
This issues with the concurrence of the  
Department of Personnel & A.R.

Yours faithfully,

( T.R. Viswanathan )

Deputy Secretary to the Govt. of India

16A  
2/9/80  
DIRECTOR GENERAL'S CELL  
Geological Survey of India  
Dy. No. 1255  
Date 28/8/80



S. M. T. W. S.  
September 1991

ANNEXURE - IV  
25  
214

17

Government of India  
Ministry of Steel and Mines  
Department of Mines

16A  
15/01/78

52

New Delhi, the 17th July, 1981

No. J-11011/171/78-M.2

Geological Survey of India,  
Section 16A  
Dy. No. 128/14  
Date 1-8-81

To

The Director General,  
Geological Survey of India,  
Calcutta.

Sub: Merger of Group C and D cadres in the G.S.I.

*Handwritten:*  
This Sir  
I am directed to refer to your letter No. 640M/  
A-11014/2/78/16A, dated 2nd May, 1981, on the subject  
mentioned above, and to say that the President in partial  
modification of para 3 of this Ministry's letter  
No. A-11019/2/78-M.2, dated 24th August, 1978, is pleased to  
decide that these orders will take effect from 20.12.1980.  
Payment of arrears, etc. to employees on account of these  
orders may accordingly be regulated according to the revised  
date of effect of these orders.

F/x

Yours faithfully,

*Handwritten signature:* H.L. Attri

(H.L. Attri)

Under Secy to the Govt of India

GENERAL'S CELL  
Geological Survey of India  
No. 1399  
21/7/82

Sr. B. G. (P)

14  
21.7.81





18

**REGISTRATION RULES FOR THE POST OF  
TECHNICAL OPERATOR (ZOOLOGY)**

Annexure V  
4/

1. Sl. No. :
2. Name of the post : Technical Operator (Zoology)
3. No. of post : 101 \* ( 1980)  
\* Subject to variation dependent on workload.
4. Classification : General Central Service Group ' C'  
Non - Ministerial.
5. Scale of pay : Rs. 800-15-1810-2-20-1830/-
6. Method of selection post or Non - selection post. : Non - selection.
7. Age limit for direct recruits : 25 years.

(Relaxable upto 5 years for SC/ST candidates and upto 65 years for Government servants in accordance with the orders or instructions issued by the Central Government from time to time in this regard.)

**NOTE 1.** The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in the Andaman and Nicobar Islands and Lakshadweep).

**NOTE 2.** In case of appointment to be made through Employment Exchanges, the crucial date for determining the age limit shall be the last date upto which the Employment Exchanges are asked to submit the names.

**Essential & other qualifications :** Essential:  
Qualification for direct recruits.

- (1) Matriculation or its equivalent.
- (2) 2 years experience in any Laboratory viz. Chemical, petrological, Mineral Physics or in section cutting.

The qualification regarding experience is relaxable at the discretion of the competent authority in case of candidates belonging to the SC/ST, if at any stage the competent authority is of the opinion that sufficient number of candidates belonging to the community possessing the requisite experience are not likely to appear for the vacancies reserved for them.

8. Method of selection : Age : No, Educational Qualifications :  
by direct recruitment or by promotion/transfer  
Yes

9. Period of probation : 2 years.

10. Method of promotion : 75 % by promotion failing which, transfer on  
by direct recruitment and 25 % by direct recruitment failing which,  
and 25 % by direct recruitment failing which,  
to be filled by direct recruitment.

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12. In case of recruitment by promotion/deputation/transfer grade from which promotion/deputation/transfer to be made.

**Promotion :**  
Technical Helper in the Scale of Rs.800-1150/-, Jamadar(Rs.775-1025/-) Duffry (Rs.775-1005/-), Binder(Rs.800-1150/-) with 6 years regular Service in one or, more Gr. 'D' cadres of GSI and subject to pass in a trade test to be conducted by the grade controlling authority i.e. DGE.

**Transfer on Deputation :**  
Officer holding analogous or an equivalent posts under Central Government/ State Government/ Public Sector Undertakings and possessing qualifications indicated under Col. 3 (Period of deputation shall ordinarily not exceed 5 years).

13. DFC exists what is its composition.

**Group 'C' DFC (for consideration promotion and confirmation) consisting of :**

1. Geologist (Sr.) or an officer of equivalent ..... Chairman rank of GSI.
2. Group 'A' Officer in the scale of pay of ..... Member Rs.3000-4500/- from any other Central Government Department located in the Region or Division or CHQ., of GSI where the meeting of the DFC is held.
3. 'S A O' or an Officer equivalent rank of GSI ..... Member
4. Group 'A' officer in the scale of pay of ..... Member Rs.3000-4500/- of GSI belonging to the SC or ST community.

14. Circumstance in which UPSC is to be : Not applicable. consulted in making recruitment.

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(20)

Anurag I  
43

RECRUITMENT RULES FOR THE POST OF  
TECHNICAL OPERATOR (CHEMICAL) IN GSI.

1. Sl. No. :
2. Name of post : Technical Operator (Chemical).
3. No. of post : 118 ( \* Subject to variation dependent upon workload).
4. Classification : General Central Service, Group 'C' (Non- Gazetted/  
Non - Ministerial).
5. Scale of pay : 210-4-226 -EB-4-250 -EB-5-280
6. Whether selection or Non-Selection. : Not applicable.
7. Age for direct recruitment : Between 18 and 25 years. (Relaxable for Government servants upto 35 years in accordance with the instructions or orders issued by the Central Govt.)

NOTE : The crucial date for determining the age limit shall be the closing date for receipt of applications from candidate in India (other than those in the Andaman and Nicobar Island and Lakshadweep). In case of appointment to be made through the Employment Exchanges, the crucial date for determining the age limit shall be the last date upto which the Employment Exchanges are asked to submit the names.

8. Educational and other Qualification required for direct recruitment. : Essential :  
(1) Matriculation or its equivalent with Science subject.  
(2) One year's experience in a scientific laboratory.

NOTE : The qualification regarding experience is relaxable at the discretion of the competent authority in the case of candidates belonging to the Scheduled Caste or the Scheduled Tribe if, at any stage of selection, the competent authority is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

Desirable : Higher Secondary or equivalent with Science subjects.

9. Whether age and educational Qualifications prescribed for direct recruits will apply in case of promotion. : NOT APPLICABLE
10. Period of probation : 2 years.
11. Method of recruitment whether by direct recruitment or by promotion or deputation transfer and percentage of vacancies to be filled by various method. : By direct recruitment.

(21)

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- ..... 2 .....
12. In case of recruitment by promotion/  
deputation/transfer grade from which  
promotion/deputation/transfer to be made. : Not applicable.
13. If D.P.C. exists what is  
its composition. : Group 'C' Departmental promotion  
Committee (for considering confirmation  
cases ) consisting of :-
1. Mechanical Engineer (Sr.) or : Chairman.  
an Officer of equivalent rank  
of Geological Survey of India.
2. A Senior Administrative Officer : Member.  
of Geological Survey of India.
3. A Group 'A' Officer of Geological : Member.  
Survey of India preferably belonging  
to SC or the ST Community.
14. Circumstances in which the UPSC is to be : Not applicable.  
consulted in making recruitment.

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ANNEXURE -

45  
VI 54

GOVERNMENT OF INDIA  
GEOLOGICAL SURVEY OF INDIA  
4, CHOWRINGHEE LANE  
CALCUTTA - 16.

No. 2023A-2034A /A-11014/4/83-16A

Dated, the 3/6/1988.

To  
The Sr. Dy. Director General/  
Dy. Director General/Director-in-Charge,  
E.R./Coal Wing/N.E.R./N.R./C.R./W.R./  
S.R./A.M.S.E. Wing,  
Geological Survey of India,  
Calcutta/Shillong/Lucknow/Nagpur/  
Jaipur/Hyderabad/Bangalore.

C I R C U L A R

A copy of the letter No. A-26022/6/87-M.II dated the 27th April '88, received from the Ministry of Steel & Mines, Deptt. of Mines, New Delhi is forwarded for information.

( P. Mukherjee )

Administrative Officer,  
for Director General,  
Geological Survey of India.

Copy of Ministry of Steel & Mines, Deptt. of Mines, New Delhi  
Letter No. A-26022/6/87-M.II dt. 27.4.88.

Sub : Inequities in the pay scale of Gr. 'C' Technical cadres  
in G.S.I.

" I am directed to refer to your letter No. 465M/Ty./A-11014/4/83-16A dated 7.4.1988, on the subject mentioned above and to say that under CCS(CCA) Rules, the various posts are classified into Groups for the purpose of specifying disciplinary authorities and empowering them to impose different types of penalties. Simply because the post has been classified as Group 'C' under CCA Rules, it is not correct to argue that they should get a higher scale. The Assistants (Rs.425-800) in the Central Secretariat Service are treated as Group 'B' posts whereas under CCA Rules a Central post carrying a pay scale with a maximum of not less than Rs.800/- but less than Rs.1300/- is also classified as Group 'B' post. In this view of the matter, there is no case for giving the pay scale of Group 'C' post i.e. of an LDC to the post Tech. Operators.

2. Another argument advanced by CSI for granting higher scale to the Technical Operators is that the minimum qualification for these posts is matriculation or equivalent in addition to laboratory experience. On the analogy that matriculation with typing experience is the minimum

Contd.....P/2...

qualification for the post of LDC, GSI have urged that the scale of pay attached to LDC i.e. Rs. 260-400/- should be granted to the Technical Operators. While Technical Operators in Geology and Chemistry do require minimum qualification of matriculation with laboratory experience, only middle school standard is stipulated for Technical Operators in Drilling and Workshops streams; and even middle school standard is not insisted upon when promotions take place to these posts from the feeder grade, i.e. Technical Helpers - Group 'D' post. Apart from the above, a Review Committee under the Chairmanship of the Additional Secretary (Mins) Dr. A.K. Ghosh, went into the cadre structure of GSI in 1978 and recommended rationalisation and merger of posts. The Review Committee recommended merger of two or more Group 'C' and 'D' posts into one Group 'C' post. The next higher post to Technical Operator is Laboratory Assistant/Drilling Assistant/Mechanic/Head Mechanic in these streams - all these are again Group 'C' posts. It is too late at this stage to complain that the recommendations of the Review Committee accepted and implemented in 1980 are inequitable and need to be reconsidered. These inequities cannot also be termed as anomalies arising out of Pay Commission's recommendations. The Associations should have agitated this matter before the Fourth Pay Commission. Secretary (Expenditure) gave a ruling that "no proposal for reopening the pay scales and other benefits recommended by the Pay Commission and accepted by Government should be entertained excepting for stray cases of omission or removal of anomalies." Recently, a Member of Parliament took up the case of revision of pay scale attached to J.T.A. (Survey) and we informed the Member that it would not be possible to reopen the fixation of the said pay scale.

3. As regards the scale of Drilling Assistant, GSI have not explained how there is an inequity, except saying that the Service Associations feel that justice has not been done to the Drilling Assistant.

4. Thus, it may be seen that the inequities pointed out by GSI are not anomalies arising out of the Fourth Pay Commission's recommendations and that it is not feasible at this late state to reopen the recommendations of the Review Committee of 1973."

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(24)  
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Annex  
VII  
6

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

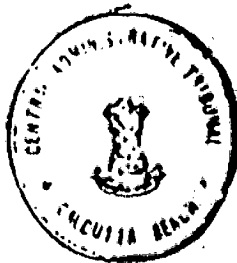
No. OA 1009 of 87

Present :- Hon'ble Shri A.P. Bhattacharyya, Member (J)  
Hon'ble Shri D.K. Chakravorty, Member (A)

Geological Survey of India Employees  
Association and others

Vs.

Union of India and others



For Applicants : Shri Samir Ghosh, Counsel.

For Respondents : Shri D.M. Das, Senior Standing Counsel,  
Shri C.R. Bag, Additional Standing Counsel.

Date of hearing : 20.6.90

Date of judgement : 31.7.90

JUDGEMENT

D.K. Chakravorty, A.M.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by the Geological Survey of India Employees Association, which is a recognised Union, Secretary General of the Association and 8 other Technical Operators (Chemical/Geological) against the arbitrary and discriminatory treatment meted to them by not assigning proper pay scale commensurate with the class and classification of the posts held by them. The applicants have prayed for issue of direction to the respondents to assign pay scale to the posts of Technical Operator (Chemical/Geological) as applicable to Group 'C' posts <sup>viz,</sup> Rs. 975 - 1540 and to pay arrears of salary to the applicants and others



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35  
2. Posts of Technical Operator (Chemical/Geological),  
which the applicants are joining from 1980 onwards, carried unrevise<sup>d</sup> pay scale of Rs. 210-290.

According to the Recruitment Rules for appointment to the post of Technical Operator (Chemical/Geological) (Annexure B to the paper-book) the post has been classified as General Central Service Group 'C' (Non-Ministerial/Non-Gazetted). For direct recruitment to the post of Technical Operator (Geological) the prescribed educational and other qualifications are Matriculation or its equivalent with 2 years experience in any laboratory. Higher Secondary or its equivalent in Science has been prescribed as a desirable qualification. In respect of Technical Operator (Chemical), the qualifications required are Matriculation or <sup>its</sup> equivalent with Science subject and one year's experience in a Scientific Laboratory. The Central Civil Services (Classification, Control & Appeal) Rules, 1944 prescribe that a Central Civil post carrying a pay or a scale of pay, the maximum of which is Rs. 190 or less is classified as Group 'D' post while a post carrying a pay or a scale of pay with maximum of over Rs. 290 but less than Rs. 2900 is classified as Group 'C' post. This classification was revised after the implementation of the recommendations of the Fourth Pay Commission. In terms of Government of India, Department of Personnel and Training Notifications dated 30.6.87/

7.7.87

a Central Civil post carrying a pay or a scale of pay, the maximum of which is Rs. 1150 or less is now classified as Group 'D' while a post with a maximum of over Rs. 1150 but less than Rs. 2900 is now classified as Group 'C'.

3. The applicants have stated that according to F.R. 56 a Group 'D' employee will retire from service on superannuation at the age of 60 years whereas an employee belonging to a Group 'C' post will retire at the age of 55 years. As the

Contd. ...]

applicants are holding posts which have been classified as Group 'C' posts their retiring age has been prescribed as 58 years. The main grievance of the applicants is that although they are holding posts classified as Group 'C', for which educational qualifications prescribed are similar to other Group 'C' posts, their age of retirement has been prescribed as 58 years but the scale assigned to them does not fall in the category of Group 'C' posts. Their pre-revised pay scale of Rs. 210-290 was included in the Group 'D' and even the revised scale given to them after the recommendation of the Fourth Pay Commission is Rs. 800-1150 which is also a Group 'D' scale. According to them, the pay scale given to the applicants is not commensurate with the posts held by them which have been classified as Group 'C'. Non-assignment of the pay scale applicable to Group 'C' posts to the applicants is arbitrary, illegal, whimsical, and also in violation of fundamental principles of law and statutory requirement of the provisions of Central Civil Services (Classification, Control & Appeal) Rules, 1965. It has been averred that the pay scale for similar <sup>or</sup> identical posts in Group 'E' in the Geological Survey of India with identical qualifications the pre-revised scale of Rs. 260-430 has since been revised to Rs. 975-1540. The applicants, individually, collectively and through Association, have been representing their case to the authorities but their grievances have not been redressed. The representation sent by the Secretary General of the Association to the Director General of the Geological Survey of India has not yet been replied to.

4. In the reply furnished on behalf of the respondents, it has been clarified that the pay scale of the Technical Operator (Chemical/Geological) has been revised with effect from 1.1.86 as per the recommendations of the Fourth Pay Commission.

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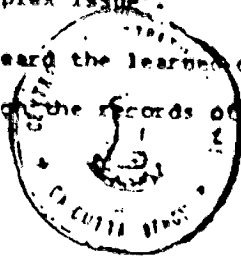


5. It is admitted, that according to recruitment rules published in December, 1980 and March, 1981, the status of the post of Technical Operators (Chemical/Geological) has been maintained in Group 'C'. The holders of Group 'C' posts are required to retire at the age of 58 years. There is no anomaly in giving Group 'C' status to a post carrying a Group 'D' scale. Certain examples of other posts have been given where the group assigned to a post does not follow the scale attached to it. In this view of the matter, there is no case in favour of giving higher pay scale of Group 'C' post to the applicants and the question of their retiring at the age of 60 years, which is applicable only to posts categorised as Group 'D', also does not arise.

6. In the reply it is further stated that the representations from the applicants were received from time to time and the office of the Geological Survey of India have approached the Ministry vide their letter dated 30.4.87 for necessary action. The matter is now under the active consideration of the Ministry and the decision is expected shortly. Accordingly it is contended that the application is pre-mature.

7. In the additional reply submitted by the respondents a reference has been made to a <sup>similar</sup> application filed in the Bangalore Bench of the Tribunal for revision of pay scales based on the concept of "equal pay for equal work". This application has been dismissed by the Bangalore Bench of the Tribunal which held that the "matter of equivalence of posts and pay scales should be left to the judgement of the expert bodies like Pay Commission etc. as the Courts are ill equipped to resolve this complex issue".

8. We have heard the learned counsel of both parties and have gone through the records of the case carefully.



Contd.: 1.5.

Annexure VII

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9. There are no disputed facts in this case. The learned counsel for the applicants has emphatically averred that there is a serious anomaly in giving the applicants a pay scale which is admittedly applicable to Group 'D' employees but at the same time, classifying the post in Group 'C'. Due to this anomaly, the applicants suffer from double disadvantage of drawing pay in a lower scale which is not commensurate with their status as Group 'C' employees and also they have to retire two years earlier than the corresponding employees in the same pay scales who have been classified as Group 'D'. The learned Standing Counsel for the respondents stated that, as already explained in their reply, the Government has fully implemented the specific recommendations of the Fourth Pay Commission and there is no anomaly as such. However, the representations submitted by the applicants are pending with the Government and the final decision is expected to be taken shortly. The application is, therefore, pre-mature.

10. In the facts and circumstances of the case, we direct the respondents to dispose of the representations of the applicants within a period of three months from the date of this order.

11. The parties will bear their own costs.

( D.K. CHAKRAVORTY )  
MEMBER (A) 31-7-1990

( A.P. BHATTACHARYA )  
MEMBER (J).



(a) Sl. No. of the App. 3122  
(b) Name of the applicant. C.A. 2229  
(c) No. of representations 1  
No. directed for copy 3320  
(d) No. of pages 2  
(e) Copying fee attached  
Amount in words free  
(f) No. of pages of the order 05/27/1990  
(g) Date of decision 3/8/90

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Sd/-  
31/7/90  
Calcutta Bench, Calcutta

(29) R.M. / ~~Ames~~ V.M.  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

452

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated 21 MAR 1989

विधि विभाग / Law Section  
दि. नं. / Dy. No. 467/LAW  
दिनांक / Dated 10.4.89

APPLICATION NOS. 1153 to 1164/88(F)

Applicants

Shri T.S. Ravindra & 11 Ors

V/s The Director, Geological Survey of India,  
Bangalore & 2 Ors

To

1. Shri T.S. Ravindra  
119/1, 6th Main  
Between 6th & 7th Cross  
Mallawaram  
Bangalore - 560 003
2. Shri Ramesh  
23rd Main, Muralraju Building  
No. 2, Maranahalli  
J.P. Nagar II Phase  
Bangalore - 560 078
3. Shri N.V. Gangadharaiiah  
C/o Munajappa Buildings  
No. 2, II Phase, 1st Cross  
Maranahalli, J.P. Nagar  
Bangalore - 560 078
4. Shri H. Rangegowda  
C/o Chairman Karianna  
Sunkadha Katta  
Vishvanandan Post  
Bangalore - 560 091
5. Shri T.C. Thimogowda  
No. 263, II Main, III Cross  
Shivanahalli  
Bangalore - 560 010
6. Shri K.C. Chikkanna  
C/o Shri B.H. Kumar  
No. 1, Corporation Quarters  
1st Cross, Magadi Road  
Bangalore - 560 023

Respondents

7. Shri T.N. Hornagalaiah  
No. 311, 6th Cross  
Maddi Block  
Mariyappanapalya  
Bangalore - 560 021
8. Shri B. Chikkanna  
No. 32, II Stage  
Mysore Road  
Bangalore - 560 026
9. Shri N. Ramachandran  
No. 34, Davappa Buildings  
Maranahalli, J.P. Nagar II Phase  
Bangalore - 560 078
10. Shri P.V. Krishnappa  
No. 219, 37th 'A' Cross  
8th Block, Jayanagar  
Bangalore - 560 041
11. Shri Kalagowda  
S/o Shri Kemperangegowda  
Vajahalli, Thalagatpura Post  
Kannanapura Road  
Bangalore South
12. Shri P.N. Anandraseo  
No. 741, Divendrapalya  
Opp. MSR High School  
Bangalore - 560 054
13. Dr N.S. Nagaraja  
Advocate  
35 (Above Hotel Swageth)  
1st Main, Gandhinagar  
Bangalore - 560 009

- 52
14. The Director  
Geological Survey of India  
AMSE Wing  
No. 2, Church Street  
Bangalore - 560 001
15. The Director General  
Geological Survey of India  
No. 27, Jawaharlal Nehru Road  
Calcutta - 700 016

16. The Secretary  
Ministry of Steel & Mines  
Department of Mines  
New Delhi
17. Shri M. Vasudeva Rao  
Central Govt. Sing Counsel  
High Court Building  
Bangalore - 560 001

\*\*\*\*\*

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER passed by this Tribunal  
in the above said applications on 17-3-89.

Deputy Registrar  
(Judicial)

Encl : As above

Annexure III  
Annexure - F  
54 66

(80)  
(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

Dated the 17th Day of March, 1989.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY VICE CHAIRMAN  
THE HON'BLE MR. L.H.A. REGO .. MEMBER(A)

APPLICATIONS NOS. 1153 TO 1164 OF 1988(F)

1. T.S. Ravindra  
25 years,  
S/o T.G. Subba Rao  
119/1, 6th Main  
Malleswarah  
Bangalore-3  
Applicant in Appln. 1153/88
2. Ramesh S/o Shivarpa Shetty  
28 years, 23rd Main  
Mummalarajus building  
No. 2, Maranahalli  
J.P. Nagar II Phase  
Bangalore-78  
-do- " 1154/88
3. M.V. Gargadharaiah S/o V.  
Veeraiah, 28 years,  
C/o Maranahalli buildings  
No. 2 II Phase I Cross  
Maranahalli, J.P. Nagar,  
Bangalore-78.  
-do- " 1155/88
4. H. Rangagouda  
40 years, S/o Hantrangaiah  
C/o Chairman Karianna  
Sunkadakatte,  
Viswanandam post,  
Bangalore-91  
-do- " 1156/88
5. T.C. Thimmegouda  
S/o Thimmegouda  
36 years,  
No. 236, II Main, III Cross  
Shivanahalli, Bangalore-10  
-do- " 1157/88

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6. K.C.Chikkanna  
35 years,  
S/o Late Sannachickaiiah  
C/o B.H.Kumar  
No.1, Corporation Quarters  
1st Main Cross, Magadi Road,  
Bangalore-23.

Applicant in A.1153/38

7. T.N.Honnagaiah  
38 years,  
S/o Manjaiah  
No.311, 6th Cross  
Masdi Block  
Mariyappanapalyam  
Bangalore-21.

-do- 1153/38

8. B.Chikkanna  
32 years  
S/o Boraiah  
No.32, II Stage,  
Mysore Road  
Bangalore-26

-do- 1153/38

9. N.Ramachandran  
39 years  
S/o Late Natesan  
No.34, Devappa Buildings  
Marenahalli, J.P.Nagar,  
II Phase, Bangalore-78

-do- 1151/38

10. P.V.Krishnappa  
35 years,  
S/o P.Varadappa  
No.219, 37th A cross  
8th Block, Jayanagar  
Bangalore-41

-do- 1150/38

11. Kalegowda  
38 years  
S/o Kemperangagowda  
Vajahalli, Thalgaatpura post  
Kanakapura Road, Bangalore South

-do- 1153/38



Annexure VIII  
Annexure VIII

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12. P.N.Anand Rao  
28 years  
S/o R.Narasimha Rao  
No.741, Divendranalya  
Opp:MSR High School,  
Bangalore-54.

.. Applicant in A.No.1164/88

(By Dr.M.S.Nagaraja, Advocate for the applicants)

-vs.-

1. The Director  
Geological Survey of India  
AMSE Wing  
No.2, Church Street,  
Bangalore-1.
2. The Director General  
Geological Survey of India  
27, Jawaharlal Nehru Road,  
Calcutte-16
3. Union of India by its  
Secretary  
Ministry of Steel and Mines  
Department of Mines  
New Delhi.

.. Respondents.

(By Shri M.Vasudeva Rao, Addl.Standing Counsel  
for Central Govt. for respondents)

These applications coming on for hearing  
this day, HON'BLE MR.L.H.A.REGO, MEMBER(A), made  
the following:

ORDER

These are in all twelve applications,  
wherein, the main prayer herein is to direct the  
respondents, to consider their case objectively, for  
assigning the pay scale of Rs.250-430(pre-revised)

fil

from

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3 from the date of their appointment, as Technical Operators (TOs) and the revised pay scale for that post, with effect from 1-1-1986 as recommended by the IV Central Pay Commission (IV CPC, for short) with consequential benefit. As these applications are analogous on facts and law, we propose to dispose them of, by a common order.

2. The following are the salient facts. The applicants are at present working as TOs, in the revised pay scale of Rs.800-1150 (Rs.210-290 pre-revised), in the Office of the Geological Survey of India (GSI) in the Airborne Mineral Surveys and Exploration Wing ('AMSE' for short), Bangalore, under the immediate control of respondent (R) 1. The GSI, is primarily responsible for geological mapping, geo-physical survey, mineral investigation, including off-shore mineral exploration, geo-technical investigation etc.

3. A Review Committee, under the Chairmanship of Shri A.K.Ghosh, was appointed by the Government of India (GOI) in 1973, to consider rationalisation of pay scales of the posts, in Groups 'C' and 'D' cadres, in the GSI. Pursuant to the recommendations of this Committee, the GOI rationalised the pay scales of the respective posts, in the two streams in the GSI,

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viz.,

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P 58

viz., "Geology" and "Chemical" and redesignated these posts as under:

S.No.	Existing designation.	Existing scale of pay (Rs.)	Revised designation.	Revised scale of pay (Rs.)
(1)	(2)	(3)	(4)	(5)

I. GEOLOGY STREAM

(i) Sr.Tech.Asstt. (Geology)	550-300	Senior Technical Assistant (Geology)	550-25-750-ES-30-900.
(ii) Sr.Tech.Asstt. (Pet/Pal)			
(iii) Jr.Tech.Asstt. (Geology)	.. 425-700	Jr.Tech. Assistant (Geology)	425-15-500-ES-15-560-20-700.
(iv) Tech.Asstt. (Pet/Pal)			
(v) Laboratory Asstt. (Pet/Pal)	.. 380-560		
(vi) Laboratory Asstt. Museum (Pet/Pal)	.. 330-480	Laboratory Assistant (Geology)	330-10-380-ES-12-500-15-560.
(vii) Head Section Cutter.	.. 330-480		
(viii) Museum Attendant.	.. 210-280	Technical Operator (Geology)	210-4-226-ES-4-250-ES-5-290.
(ix) Section Cutter			

II. CHEMICAL STREAM

(i) Sr.Tech.Asstt. (Chemical)	.. 550-300	Sr.Tech. Asst. (Chem)	550-25-750-ES-30-900.
(ii) Jr.T.A. (Chem)	.. 425-700	Jr.T.A. (Chem)	425-15-500-ES-15-560-20-700.
(iii) Glass Blower.			

(iv)

(1)	(2)	(3)	(4)	(5)
(iv)	Laboratory Asstt.(Chem)	380-560	Laboratory Assistant.	380-12-500 EB-15-560.
(v)	Laboratory Operator (Chem)	260-480	Tech.Opera- tor.	210-4-226-E9- 4-250-E3-5-290.
(vi)	Tech.Attendant.	210-270		
(vii)	Laboratory Attendant.	210-270		

4. The details of classification of the posts with which the applicants are concerned, and their sanctioned strength in respect of the posts, before and after rationalisation of pay scales as above, are as below:

S.No.	Designation of the post	Classi- fication	Scale of pay (Rs.)	Sanctioned strength.
(1)	(2)	(3)	(4)	(5)
<u>I. Prior to rationalisation</u>				
(i)	Museum Attendant	Gr. 'C'	210-290	5
(ii)	Section Cutter	Gr. 'C'	210-290	68
(i)	Laboratory Operator (Chem)	Gr. 'C'	260-430	15
(ii)	Lab. Attendant	Gr. 'D'	210-270	71
(iii)	Tech. Attendant	Gr. 'D'	210-270	33
<u>II. After rationalisation</u>				
(i)	Tech. Operator	Gr. 'C'	210-290	73
(ii)	(Geology)			
(i)	Technical	Gr. 'C'	210-290	119
(ii)	Operator			
(iii)	(Chemical)			

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The sanctioned strength of TOs(Geology), is said to have been stepped up, to 101, with the addition of 28 new posts by the GOI, in 1982. The sanctioned strength of TOs(Chemical) also increased to 144, with the inclusion of 25 new posts by the GOI, since 1981.

5. Rationalisation of the pay scales as above, is said to have taken place, consequent upon the merger of the Indian Bureau of Mines (IBM) with the GSI. Originally, the posts of TOs are said to have been categorised as Class III (Group 'C'), but came to be downgraded as Group 'D', after the merger of IBM with the GSI, with effect from 1-1-1966. However, on acceptance of the recommendations of the aforesaid Review Committee, these posts were restored to Group-C status from 1980, but they were assigned Class IV pay scale, namely, Rs.210-290, which actually corresponded to that of Group 'D'. The recommendations of the 1978 Ghosh Review Committee, were accepted by the Ministry of Steel and Mines, GOI, on 24-8-1978 (Ann.A) but were actually given effect to, from 20-12-1980 (Annexures 'B' to 'D').

6. The applicants state, that they perform the following duties:

"(i) Preparation of thins, polish sections of different types of rocks/ores/minerals/fossils and related work.

(ii)

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- (ii) To assist the Curator-in-charge of gallery.
- (iii) Cutting and polishing of geological samples.
- (iv) To work in geology/mineral physics/geochromology/paleontology laboratories of the GSI.
- (v) Assisting the Senior Scientific Officer in the Laboratory, in the preparation of samples, reagents, solutions etc."

7. They allege, that their counterparts in the other Departments of the GOI, whose qualifications, nature of duties and responsibilities, are similar to theirs, are yet, drawing a higher pay scale viz., Rs.260-430(pre-revised).

8. In order to secure parity with them, they state, that they had addressed a series of representations, to the concerned authorities, but to no avail. They were however under the hope, that the IV CPC, would examine the matter objectively, and place them on par with their counterparts, in the concerned Departments of the GOI, both in regard to pay scale and classification of post. They allege, that it failed to do so, on account of which, they addressed further representations in the matter, to the authorities concerned (Ann.A2 and A3), to which there was no favourable response, as the GOI, by their letter dated 27-4-1988(Ann.A4) informed them, that anomalies

*da*

as alleged by them, had not arisen in their case, out of the recommendations of the IV CPC, and therefore, it was not feasible at this late stage, to reopen the recommendations of the 1978 Ghosh Review Committee. Aggrieved, the applicants have come before us, for redress, through their present applications.

9. The respondents have filed their reply, resisting the applications.

10. Dr. M. S. Kaceraja, learned Counsel for the applicants, contended, that the Laboratory Assistants/ Junior Laboratory Assistants, working in some of the other Departments of the GOI, who possessed similar qualifications and discharged duties and responsibilities of a like nature, as his clients, were drawing a higher revised pay scale viz., Rs. 875-1040, as compared to theirs, which is Rs. 800-1150.

11. In the National Tuberculosis Institute, Bangalore, he said, the Laboratory Assistants, possessing SSLC qualification and two years of experience and performing similar duties as his clients, were drawing a higher revised pay scale of Rs. 875-1450 (Ann. A-5).

12. He cited another instance, of Junior Laboratory Assistants in the National Aeronautical Laboratory, Bangalore, with like experience and educational qualification, as also similar nature of duties, were drawing



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a higher revised pay scale of Rs.950-1400(Ann.A-6).

13. The Laboratory Assistants in the Office of the Development Commissioner, Handicrafts, Technical Wing, Bangalore, with similar experience, nature of duties and educational qualifications, he pointed out, were drawing a higher revised pay scale of Rs.950-1400(Ann.A-7).

14. The other examples which he quoted, in regard to posts, comparable to those of his clients, by way of nature of duties, responsibilities and qualifications, in other Departments of the GOI, where higher revised pay scales were sanctioned, were as below:

S.No.	Department	Post	Revised pay scale Rs.	Reference to the IV CPC Report.
(i)	Department of Posts.	Postman	825-1200	Paras 10.50 and 10.51, Chapter 10.
(ii)	-do-	Linemen/Wiremen.	825-1200	Paras 10.68 <u>ibid</u>

15. It was unjust and invidious, he alleged, that while all other cadres, with minimum educational qualification of Matriculation, in various other Departments in the GOI, were categorised as Group 'C' and paid higher salary, corresponding to that <sup>of</sup> Group 'C', only his clients, though placed in Group 'C', strange enough, were placed, in a lower revised pay scale of Rs.800-1150 corresponding



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Annexure VIII  
Annexure - F  
64

corresponding to that of Group 'D'. The assignment of Group 'C' status, was thus only namesake, he averred, without commensurate financial benefit, which he alleged, acted as a serious disincentive, to his clients, and was a flagrant denial of the fundamental rights of equality before law and equality of opportunity, in matters of public employment, guaranteed to every citizen, under Articles 14 and 16 respectively of our Constitution. The concept of "equal pay for equal work", was not a mere abstract doctrine, but an explicit mandate, to be implemented by the GOI, as the touchstone of equality, enshrined in the above two Articles of the Constitution, were the greatest of guarantees for the citizens and to civil servants in particular, in the context of this case, he asserted. The basic principle which informed these Articles, he stressed, was equality and inhibition against discrimination.

16. There was yet another anomaly, he pointed out. The post of Technical Helper in the GSI, for which the minimum educational qualification was middle school examination (pass) and was in Group 'D', carried the same revised pay scale viz., Rs. 800-1150, as the posts of IOs (Chemical) and (Geology), though the latter posts were categorised as Group 'C' and the former was a feeder channel to them, on satisfactory completion of 8 years of service. Besides, the latter posts had a

higher

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higher minimum educational qualification viz.,  
Matriculation or its equivalent, with a science  
subject.

17. The IV CPC, he complained, grossly overlooked ~~was~~ this anomaly, and the case for equality in respect of the cadre of Technical Operators, with corresponding posts in various other Departments of the GOI, even though the qualifications, nature of duties and responsibilities involved, were alike. Citing the decision of the Chandigarh Bench, of the Central Administrative Tribunal, in ATR 1988(2) CAT 44 (RAJINDER KUMAR RAWAT & ORS. v. PRINCIPAL, PUNJAB ENGINEERING COLLEGE, CHANDIGARH), he urged, that since the case of his clients, suffered from the taint of discrimination, this Tribunal was competent to direct R-3, to restore parity to the cadre of TOs, in regard to pay scale, as compared to corresponding cadres in the other Departments of the GOI and this was a **fit case**, where it should not hesitate to interfere, to **grant** redress to the applicants.

18. Shri M. Vasudeva Rao, learned Counsel for the respondents, sought to demolish the various contentions urged as above, by Dr. Nagaraja. He urged that equation of posts was not a mechanical process and called for a critical and incisive analysis of a

post

Annexure VIII

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host of relevant factors and parameters, which a competent body like the Pay Commission and the Executive Government, could only undertake, as observed by the Supreme Court, in AIR 1989 SC 19 [STATE OF U.P. & ORS. -v- T.P. CHAURASIA & ORS.] on which he strongly relied, particularly on paras 17 and 28 of that judgment.

19. In this regard, he also called in aid, the dicta of the Supreme Court in AIR 1968 SC 850 [UNION OF INDIA & ANR. -v- P.K. ROY & ORS.] in regard to the factors to be taken into account, while considering equation of posts, in the context of which, he pleaded, that no injustice was caused to the applicants, in assigning the revised pay scale to the posts of TQs (Geology) and (Chemical).

20. Prior to merger of the erstwhile E.N. Wing of the IBM with GSI, with effect from 1-1-1965 (para 5 above), the post of Laboratory Attendant in the GSI, carried a pre-revised pay scale of Rs. 85-128 and was classified as Group 'C', while a post of like designation in the IBM, was borne on the pre-revised pay scale of Rs. 85-110 and was classified as Group 'D'. Since there was no incumbent in the post of Laboratory Assistant in the GSI, this post came to be merged with that of erstwhile IBM, in the pay scale of Rs. 85-110 and re-designated as Laboratory Attendant and

reclassified



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reclassified as Group 'D'. The applicants he  
averred, were not affected thereby, as they were  
appointed later.

21. The various representations addressed by  
the applicants to the concerned authorities, in  
regard to amelioration of their revised pay scale,  
were duly considered, by the taking all factors into  
account, when it was noticed, that there ~~was~~ no  
anomaly, as alleged by them and that the revised  
pay scale assigned to them, in the posts of IOs, was  
just and proper, as recommended by the IV CPC, he said.

22. We have examined carefully, the rival  
contentions, as also the material placed before us  
by both sides. This case rests essentially, on the  
principle of "equal pay for equal work", as enshrined  
in Articles 14 and 16 of our Constitution.

23. About a week ago, we had occasion to hear  
at length <sup>in</sup> allied matter, in Applications Nos. 687 to 690  
and 691 to 694 of 1988(F) H.S. ANANTHAPADMANABHA & 7 ORS.  
-vs.- UNION OF INDIA & ORS., in which we pronounced  
orders today earlier. That matter related to the  
equivalence, sought by the applicants therein, between  
the ministerial posts of Deputy Office Superintendents  
viz., Levels I and II, in the Department of Central  
Excise, in regard to pay scales and their unification  
into one cadre and thereafter, similar equivalence with  
the executive post of Inspector of Central Excise, in

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*Answered*  
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the same Department. We have discussed the case law therein, comprehensively and in depth, taking into account, the various factors involved, in regard to the concept of "equal pay for equal work", similarly urged therein, invoking Articles 14 and 16 of the Constitution. As the facts in those cases, as well as the question of law involved, are analogous to the present cases, the principles which we have enunciated therein, apply mutatis mutandis, to the latter.

24. Numerous factors and indices are involved in the comparison of posts/cadres. They are, the nature of duties of the post, the responsibilities and powers exercised therein, the extent of territorial or other charge held or responsibilities discharged; the minimum qualification and/or experience if any, prescribed for the post, salary of the post etc. The nature of duties in the field, in particular, may entail risk and hazard to life, in vulnerable conditions from anti-social elements; posting in the remote interior, where basic amenities of life such as health, education and essential commodities, may not be within easy reach; rugged terrain, inhospitable environment and insalubrious climate, as in arid, desert regions, as also in dense secluded forest areas, with conditions aggravated, by poor means of communication etc. In intra-mural work-sites, as in laboratories and workshops, risk of infection from contagious



69 2 (11) (16) 45

contagious diseases, as in hospitals and allied institutes, as in the case of the National Tuberculosis Institute, leprosaria etc., and ill-effects of radiation as in atomic research laboratories, cannot be lost sight of. Even among clerical staff, the nature and responsibility of work, very vastly, depending upon the secrecy and confidentiality of files and correspondence to be maintained and their safe custody. Quantity of work may be the same but their quality may vary. Thus, a series of factors and parameters, permute and combine, in varying degrees, to come into play, the net result of which, should ultimately determine, the correct equivalence of the posts.

25. A common designation of posts and cadres in this context would be extremely delusive, as in the case of drivers, laboratory assistants/attendants and stenographers, - to cite a few examples. In this regard, it is apt to quote the legal maxim that "nothing similar is identical" - nihil simile est idem." The Supreme Court has graphically brought out the nuances, in 1982(1) SC 490 AIR 1982: 1982 SCC (L & S) 119 [RANJIT SINGH v. UNION OF INDIA AND OTHERS], pertaining to drivers, and in AIR 1987 S.C. 2049: 1988 SCC (L&S) 673: (1988)3 SCC 9 [FEDERATION OF ALL INDIA CUSTOMS & CENTRAL EXCISE STENOGRAPHERS & ORS. -vs.- UNION OF INDIA & ORS.] in regard to Stenographers.

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Annexure VIII  
Annexure - E70  
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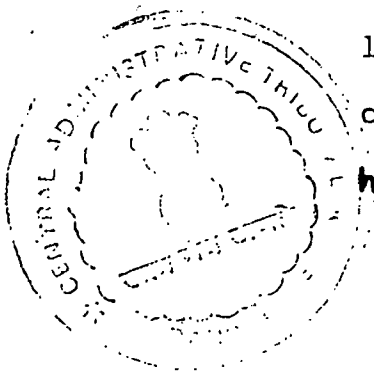
The conditions under which the drivers are required to work, may vary vastly, in urban as compared to far-flung rural areas, which may extend even to the remote interior forest regions, where factors, such as ruggedness of the terrain, risk to life from anti-social elements, inclement climate etc., are factors, which cannot be left unreckoned.

26. Taking all these factors into account, the Supreme Court has sapiently observed, in AIR 1989 SC 19 [STATE OF U.P. & ORS. -vs.- T.P. CHAURASIA & ORS.]<sup>7</sup>, that the matter of equivalence of posts and pay scales, should best be left, to the sound judgment of expert bodies, like the Pay Commission, ill-equipped as the Courts (and Tribunals) are, to resolve this complex issue.

27. In the present case, we notice that the 1978 Ghosh Review Committee, as well as the IV CFC, have given due thought, to rationalisation of pay scales in the GSI, not excluding the pay scales of the posts of TOs. We have no compelling reason, to differ from their expert judgment, particularly in the light of the dicta of the Supreme Court in CHAURASIA's case. Experto crede - "trust one, who has tried or had experience", says the maxim.

✓

28. We



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28. We notice, that the post of Laboratory Attendants in the GSI, has had a chequered history in regard to its classification. Prior to merger of the IBM with the GSI, with effect from 1-1-1966, it was categorised as Group 'C' and thereafter downgraded as Group 'D'. Its Group 'C' status however, was restored in 1980, when the recommendations of the 1978 Ghosh Review Committee, were accepted by the GOI but the pay scale that was assigned to this post, corresponded to that of Group 'D'. Though this is a "seeming disparity", Shri Rao clarifies, that it has a precedent, in certain other posts, in some of the Departments of the GOI, as such, categorisation, though detracting from direct benefit in regard to pay scale, is not without its advantage, in some other service matters. In this background, we do not wish to enter into administrative thickets and unravel this "seeming disparity".

29. The instances of higher pay scales, cited by Dr. Nagaraja, in paras 11 to 14 above, are of little avail to him, in the light of what we have explained in the foregoing. For the same reason, the decision of the Chandigarh Bench of the Central Administrative Tribunal relied upon by him, in RAJINDER KUMAR RAWAT's case (para 17 above), does not come to his succour.

30. Viewed



49

Annexure VII

Annexure - F

84-72

- 19 -

30. Viewed as a whole, we are satisfied that no injustice has been caused to the applicants, in assigning them the revised pay scale in the posts of 10s. We, therefore, dismiss these applications as devoid of merit, with no order however, as to costs.

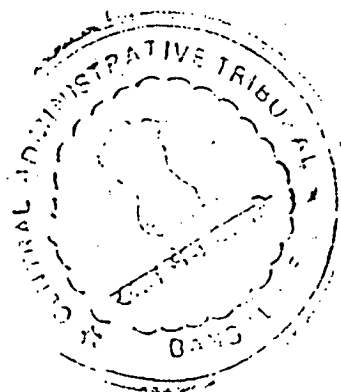
sd/-

(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

sd/-

(L.H.A. REGO) 17.3.84  
MEMBER (A)

TRUE COPY



DEPUTY REGISTRAR (Jr.)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

O.A. 142 of 1991

ANNEXURE - IX

Present : Hon'ble Mr. Justice M.R. Mallick, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

GEOLOGICAL SURVEY OF INDIA  
EMPLOYEES' ASSOCIATION & ORS

VS

UNION OF INDIA & ORS

For the applicants : Mr. Samir Ghose, Counsel

For the respondents : Mr. D.N. Das, Sr. Counsel  
Mr. C.R. Bag, counsel

Heard on : 1.12.94 : Order on : 1.12.94

ORDER

M.R. Mallick, V.C.:

This original application has been filed by the Geological Survey of India Employees' Association and nine others who are working as Technical Operator (Chemical/Geological) in the said organisation being aggrieved that inspite of their repeated representations, they have been denied the higher pay scale of Rs. 975-1540/- w.e.f. 1.1.86. They have also challenged Annexure-F to the application which is a letter from the Deptt. of Mines, New Delhi dated 27.4.88 refusing the prayer of the applicants to give them the higher pay scale as aforesaid. It is the main grievance of the applicants that even though their status has been raised to that of group-'C' employees, their pay scale has not been enhanced commensurate with their changed status.

2. Mr. Samir Ghose, the learned advocate appearing for the applicants has produced before us a copy of the judgement delivered by the Cuttack Bench of the Tribunal in O.A. 177 of 1993 dated 11.8.94. It is submitted that in that case some similarly situated Technical Operators prayed for granting them the higher pay scale of Rs. 975-1540/- although they were all initially appointed in Group

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they were granted the corresponding revised scale of Rs. 800-1150/-. They claimed that since they were treated as Group C employees, the unrevised pay scale of which was Rs. 260-400/- and the corresponding revised pay scale was Rs. 975-1540/-. they should be granted the pay scale of Group C i.e. Rs. 975-1540/-. The Cuttack Bench of the Tribunal accepted their contention and granted the relief of higher pay scale. It is also submitted by Mr. Ghose that judgement of the Cuttack Bench has already been implemented by the respondents and the counter-parts of the present applicants are getting higher pay scale of Rs. 975-1540/-. Hence the present applicants should also be granted the same pay scale.

3. Mr. D.N.Das for the respondents, however, submits that he has no instruction regarding this submission of Mr. Ghose. He, on the other hand, relies on another judgement of the Bangalore Bench of the Tribunal in O.A. 1153-64 of 1988 (T.S.Rabindra & Ors -vs- UOI & Ors) decided on 17.3.89, a copy of which has been annexed to the reply of the respondents at Annexure-R6. We find that in that case the applicants were also Technical Operators of GSI, who claimed that they should be granted the pre-revised pay scale of Rs. 260-430/- and the revised pay scale of Rs. 975-1540/- from 1.1.86 on the ground that they had been conferred the status of Group C employees. The Bangalore Bench of this Tribunal, however, rejected the prayer of the applicants therein and held that no injustice had been done to them by not granting the higher pay scale, as claimed by them, by the respondents. Mr. D.N.Das, therefore, contends that the present applicants being similarly circumstanced, they cannot be granted the higher pay scale and no illegality has been committed by the respondents in granting them the pay scale of Rs. 800-1150/-.

4. We have gone through both the judgements viz. the one rendered by the Cuttack Bench and the other delivered by the Bangalore Bench of this Tribunal. We find that the Cuttack Bench judgement, which is a subsequent one, did not refer to the earlier judgement rendered by the Bangalore Bench on the same subject matter.

11/1/78

63 - 76  
123 R/11  
Annexure F  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. 142 of 1991

Present : Hon'ble Mr. Justice S.C. Mathur, Chairman  
Hon'ble Mr. Justice M.R. Mallick, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

GEOLOGICAL SURVEY OF INDIA  
EMPLOYEES' ASSOCIATION & ORS.

UNION OF INDIA & OTHERS



For applicants : Mr. Samir Kumar Ghosh, counsel  
For respondents : Mr. D.N. Das, Sr. Counsel  
Mr. C.R. Bag, counsel

Heard on : 2.1.1995

Judgment on : 3.1.1995

J U D G M E N T

M.R. Mallick, VC

This matter has been referred to Full Bench by the Division Bench comprising Hon'ble Mr. Justice M.R. Mallick, Vice-Chairman and the Hon'ble Mr. M.S. Mukherjee, Administrative Member by the order dated 1.12.1994 to decide the following questions :-

- 1) Whether the present applicants are entitled to get the higher pay scale of Rs. 975-1540/- w.e.f. 1.1.86 ; and
- 11) Whether the order of the Department of Mines dated 27.4.88 as shown in Annexure-F to the application is liable to be quashed.

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77-5  
2. The facts of the case may be briefly stated as follows :-

1) A joint application has been filed bearing O.A.142 of 1991 by the G.S.I. Employees' Association and (nine) Technical Operators (Chemical/Geological) being aggrieved that inspite of the repeated representations, they have been denied the scale of pay of Rs.975-1540/- w.e.f. 1.1.1986 i.e. minimum pay scale of L.D.C. under the revised scale of pay, even if the Technical Operators (Chemical/Geological) have been granted the status of Group 'C' employee. Even if their status have been elevated from Group 'D' to Group 'C', but their pay scale of Rs.196-230/- and Rs.210-290/- as per the recommendations of the 3rd Pay Commission had not been revised and with effect from 1.1.1986, they were granted the corresponding revised pay scale of Rs.800-1150/-. But as they have been classified as a Group 'C' employees, they were entitled to the un-revised pay scale of Rs.260-400/- and the corresponding revised scale of pay was Rs.975-1540/-.

ii) The applicants filed an earlier application seeking same relief in O.A.1009 of 1987 and the Division Bench of this Tribunal, by its order dated 31.7.90, on the submissions made by the respondents' Ld. Advocate that the representations of the applicants praying for the scale of pay of Rs.975-1540/- were pending decision before the Ministry and the Geological Survey of India forwarded their representation dated 30.4.87 and the decision of the Ministry was expected shortly, directed the respondents to dispose of the representation of the applicants within a period of three months from the date of communication of that order. After the said judgment has been delivered, the Administrative Officer for

Director General, Geological Survey of India, forwarded the applicants the Ministry's letter dated 27.4.88, which purported to reject the claim of the applicants for the higher scale of pay of Rs.975-1540/-.

iii) It, therefore, appears that even if before the dismissal of the earlier original application the Ministry had already taken a decision rejecting the claim of the applicants, the Director General, G.S.I. did not communicate such decision to the applicants and the Tribunal gave the respondents direction to dispose of the representations.

iv) However, as the copy of the letter dt.27.4.88 has been communicated to the applicants by the letter dated 30.11.90, the applicants have filed this application challenging the said letter dated 27.4.1988 and have prayed for quashing the same and for granting them scale of pay of Rs.975-1540/-.

3. When this matter was heard by the Division Bench, a judgment delivered by Cuttack Bench of this Tribunal in OA.177 of 1993 dated 11.8.94 was produced before the Division Bench, in which the Cuttack Bench granted the Technical Operators of the G.S.I. working within the jurisdiction of the above Bench the higher scale of pay of Rs.975-1540/-.

4. Before the Division Bench, Mr.D.N. Das, Ld Advocate appearing for the respondents referred to us the judgment of Bangalore Bench of this Tribunal in OA.1153-64 of 1988 (T.S.Rabindra & Ors. v. Union of India & Ors.), decided on 17.3.89, a copy of which has been annexed to the reply of the respondents as Annexure-R6 and has submitted that the Bangalore Bench of this Tribunal had decided the case of the Technical Operators of the G.S.I., who also claimed the/

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pre-revised scale of Rs. 260-430/- and the revised pay scale of Rs. 975-1540/- with effect from 1.1.1986 and the said applications had been rejected by the Tribunal. It was, therefore, submitted that the Cuttack Bench of the Tribunal did not refer to the earlier Division Bench judgment of the Bangalore Bench and when the Bangalore Bench, on considering the case from all its aspects dismissed the applications of similar Technical Operators of the G.S.I. working in the jurisdiction of the Tribunal, then this Tribunal should not follow the judgment passed by the Cuttack Bench.

In view of the above conflicting decisions, the Division Bench referred the matter to Full Bench.

Mr. Samir Kr. Ghosh, Ld. Advocate appearing for the applicants, has urged before us that before the Calcutta Bench, the judgment of the Bangalore Bench was also referred to by the Ld. Advocate for the respondents and in spite of that judgment, the Division Bench of the Tribunal directed the respondents to dispose of the representations of the applicants. He also points out that the Bangalore Bench even took note of seeming disparity. But relying on the judgment of the Supreme Court in State of U.P. v. T.P. Chaurasia, reported in A.I.R. 1990 S.C. 19 that the matter of equivalence of posts and pay scales, should best be left to the sound judgment of expert bodies, like the Pay Commission, the Bangalore Bench dismissed the applications finally on being satisfied that no injustice has been caused to the applicants in granting them the revised pay scale, which was actually granted to them.

*[Signature]*



57 *Amended*  
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7. Mr. Ghosh has submitted before us that when the Cuttack Bench of this Tribunal has referred this matter to the respondents to dispose of the representation finally and the representation has been disposed of finally, the applicants can very well challenge the said decision in this original application and the case should not be dismissed only on the ground that the Bangalore Bench of this Tribunal has rejected the claim of the applicants.

8. Mr. D.N. Das, Sr. Advocate appearing for the respondents, has relied upon the judgment of the Bangalore Bench. He has also submitted that the Cuttack Bench of the Tribunal, without taking note of the decision of the Bangalore Bench of this Tribunal and without assigning any appropriate reasons whatsoever directed the respondents to grant the Technical Operators the higher scale of pay and the applicants cannot get the benefit of the judgment passed by the Cuttack Bench. It is also submitted by Mr. Das that now that the 5th Pay Commission has already been constituted, the Full Bench may be pleased to direct the respondents to refer the case of the Technical Operators to the 5th Pay Commission for appropriate adjudication and when a technical body, like Pay Commission has already been constituted, the applicants' grievance, if there be any, may now be scrutinised properly by such Pay Commission.

9. We have given our anxious consideration to the submissions made by the Id. Advocate for the applicants and the Id. Advocate for the respondents. We have also perused the impugned order passed by the Ministry dismissing the claim of the applicants regarding their scale of pay of Rs. 975-1540/-. On such ground on which the claim has been rejected is that the

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applicant did not refer the matter to the 4th Pay Commission. However, it is submitted on behalf of the applicants that the matter was taken up with the 4th Pay Commission, but the 4th Pay Commission did not take any note about their grievance.

10. Now that the 5th Pay Commission has been constituted, in our opinion, it will be fit and proper that the case of the applicants for granting them minimum pay scale of Group 'C' employees, which they have been claiming for a pretty long time be examined by the said Commission. For this a reference will have to be made by the respondents.

11. In our opinion, O.A. 177/93 was not correctly decided by the Cuttack Bench of this Tribunal. It needs to be pointed out that the Bench did not have the assistance of a reply on behalf of the respondents, nor the earlier judgment of the Bangalore Bench was brought to its notice. The Cuttack Bench has also not examined the matter in detail as has been done by the Bangalore Bench.

12. The Division Bench had formulated two questions, which have already been reproduced hereinabove for answer by the Full Bench. Since we are of the opinion that the matter should be examined by the Pay Commission, it is not necessary for us to answer the said questions. On the basis of the above discussion, the original application can be finally disposed of. In our opinion, no useful purpose will, therefore, be served by first answering the questions and again directing the original application to be listed before the Division Bench for its disposal. Accordingly, we are disposing of the original application finally.

13. In view of the above, the original application is disposed of finally by directing that the respondents shall refer the

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claim of the applicants to the 5th Pay Commission within a period of 3(three) months from the date of communication of this judgment under advice to the applicants.

There shall be no order as to costs.



Sch  
 3/1/95  
 ( M.S. Mukherjee )  
 Member (A)

Sch  
 ( M.R. Mallick )  
 Vice-Chairman

Sch  
 ( S.C. Mathur )  
 Chairman

3/1/95

CERTIFIED TO BE TRUE COPY

17/4/95  
 COURT OFFICER  
 Central Administrative Tribunal  
 Calcutta Bench, Calcutta

(a) SI No.	283
(b) Name of the applicant	C. R. Ray
(c) Date of filing	03/1/95
(d) No. of pages	7
(e) Copying fee charged	Rs. 04/1555
(f) Date of preparation	17/01/95
(g) Date of delivery of copy to the applicant	

47/10/11  
 20.1.95

the 3rd April 78

The Secretary,  
Central Pay Commission,  
Trakoli - 1,  
New Delhi - 110066.

Sub : Representation of Technical Operator (Geology)  
and Technical Operator (Chemical) - Follow-up-  
action of the CAT, Calcutta judgement.

A joint application was filed being S.A. 142 of 1991  
by OSI Employees Association and 9 (nine) Technical Operators  
(Geology/Chemical) being aggrieved, inter alia, that though  
their merged posts have been elevated from group 'D' to  
Group 'C' status with effect from 20.12.88 but they have  
been denied the revised scale of pay of Rs. 975-1540/- with  
effect from 1.1.88 commensurating their changed status.

A Larger Bench of CAT, Calcutta in their judgement  
dated 3.1.93 has directed that the respondents should  
refer the claim of the applicants to the Central Fifth Pay  
Commission.

To facilitate consideration of the case by the Pay  
Commission as directed by the Court, the following documents  
are sent:

1. A Summary of the case ... Annexure-I
2. A copy of the Application ... Annexure-II
3. A copy of the Judgment dated 3.1.1993 ... Annexure-III

It may be mentioned here that OSI in their Memoranda  
to the Pay Commission, has recommended for slubbing of these  
lowestmost grades of Group 'C' Technical posts keeping the  
nature of duties.

Kindly acknowledge receipt to confirm the compliance  
to the Court.

Yours faithfully,

Encl : As above.

( S. K. BASUPTA )  
Sr. Administrative Officer  
for Director General  
Geological Survey of India  
P.T.O.

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No. A-11026/88/16A-1

the 3rd April, 1995

Copy forwarded for information to :

1. The Secretary to the Govt. of India, Ministry of Mines, New Delhi.

2. The Sr. Adm. Officer, Law Section, CHQ, GSI, Calcutta. He is requested to intimate the position to the applicants as directed by the court.

(Type/print name of the person to whom the copy is forwarded)

G/ny

(S. K. DASGUPTA)  
Sr. Administrative Officer  
for Director General,  
Geological Survey of India

MC

Subject: To Ref. No. 100/1994 dated 10.10.94 regarding the application for the grant of prospecting licence for the purpose of mining of iron ore in the area of the Government of India, Ministry of Mines, New Delhi.

Reference is made to the above mentioned subject and the copy of the order of the court dated 10.10.94 is being forwarded for your information.

The copy of the order of the court is being forwarded for your information.

The copy of the order of the court is being forwarded for your information.

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The copy of the order of the court is being forwarded for your information.

The copy of the order of the court is being forwarded for your information.

Annexure X 92

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ANNEXURE-I

85

Summary of the case for upgradation of pay scale of Technical Operator (Geology) and Technical Operator (Chemical) as claimed by the applicants in O.A. No. 142 of 1983 vis-a-vis judgement dated 3.1.1995 of CAT, Calcutta.

### (A) BACKGROUND

- (1) The following posts were merged and redesignated as Technical Operator (Geology) and Technical Operator (Chemical) vide Ministry's letter No. A-11019/2/78-M.2 dated, 24.8.78 (Copy enclosed vide Annexure X)

#### Details of the pre-merged grades:

#### Effect of merger

Sl. No.	Name of the pre-merged grade	Scale of Pay	Classi- fication	Edu: a- tional ) (qualifi- cation	Name of the merged grade	Scale of Pay	Classi- fication	Edu: a- tional ) (qualifi- cation
1.	Mission Attendant	M.210- 290/-	Group 'D'	Middle School Exam. pass & must be able to read & write English.	Tech. M.210- Gr. 'C' Operator 290/- (Geology)			1. Matriculation or its equivalent
2.	Section Cutter	M.210- 290/-	Group 'D'	Not applicable				2. 2 years experience in a Laboratory namely Chemical, Petrological Mineral Physics or in Section Cutting.
1.	Laboratory Operator (Chem)	M.260- 430/-	Group 'C'		Tech. M.210- Gr. 'C' Operator 290/- (Chemical)			1. Matriculation or its equivalent
2.	Laboratory Attendant	M.210- 270/-	Group 'D'	Middle School Standard.				2. 1 year experience in a science Laboratory.
3.	Technical Attendant	M.210- 290/-	-do-	-do-				

2. The merger was made effective with effect from 20.12.88 as per the order of the Ministry vide their letter No. J-11011/171/78-M.2 dated 17.7.81 (Copy enclosed vide Annexure 'Y').
3. The Central Fourth Pay Commission recommended the corresponding revised scale of pay of Rs. 830-1150/- for the pre-revised scale of pay of M.210-290/- to the incumbents holding the post of Technical Operator (Geology) and Technical Operator (Chemical).

Contd.....P/2.....

(63)

Annexure XT 98  
86**(A) GROUND OF THE CASE FILED :**

- 1) Consequent upon the merger and redesignation of the grades the post of Technical Operator (Geology) and Technical Operator (Chemical) have been classified to Group 'C'.
- 2) The essential educational qualification for recruitment in the said grades has been prescribed as matriculation or its equivalent alongwith 1 years/year experience in a Science Laboratory respectively.
- 3) Due to change of status as Group 'C', the retirement age has been reduced to 55 years in place of 60 years applicable to Group 'D'. Also they have to lose other facilities like grant of liveries etc. due to change of status.
- 4) The pre-revised scale of pay of Rs. 260-430/- was assigned to the incumbents holding the similar/identical post of in Botanical Survey of India which has been revised to Rs. 975-1540/- by the Central 4th Pay Commission.
- 5) The Central Civil Services (Classification, Control and Appeal) Rules, 1965 postulates that:-

a) A central civil post carrying a pay or a scale of pay the maximum of which is Rs. 290/- or less is classified as Group 'D' post.

and

b) A Central Civil post carrying a pay or a scale of pay with a maximum or over Rs. 290/- but less than Rs. 900/- is classified as Group 'C' post.

And as per the recommendation of the 4th Pay Commission and acceptance thereof the said Group 'D' post carry a pay scale of Rs. 600-1150/-

and

Group 'C' post carry a pay scale of Rs. 975-1540/-.

**(C) RELIEF SOUGHT :**

Due to the reasons stated under item (B), the incumbents holding the post of Tech. Optr. (Geology) & Tech. Optr. (Chemical) have demanded assignment of pre-revised scale of pay of Rs. 260-430/- with effect from 20.12.60 and grant of corresponding revised scale of pay of Rs. 975-1540/- w.e.f. 1.1.66 under 4th Pay Commission.

The CAT, Calcutta vide their judgement dated 3.1.93 has directed the respondents to refer the claim of the applicants to the Fifth Pay Commission.

(COPY)

ANNEXURE - 1

GOVERNMENT OF INDIA  
Ministry of Steel and Mines  
Department of Mines

No. A-11019/2/78-M.2

New Delhi, the 24th Aug.'78

To  
The Director General,  
Geological Survey of India,  
Calcutta.

Subject : Restructuring of Geological Survey of India -  
Merger and revision of scales of pay of Group  
C and D posts

Sir,

In pursuance of the recommendations of the GSI Review Committee to rationalise pay scales and cadres of Group C and D posts, I am directed to convey the sanction of the President to the Merger/re-designation and revision of the pay scales of the various categories of Group C and D posts in the Geological Survey of India as indicated in the enclosed Statement.

2. The present incumbents of the posts, the scales of which have been revised, may be allowed to exercise option to retain the existing scale of the post under PR 23.

3. The sanction takes effect from the date of the issue of this letter.

4. This issues with the concurrence of the Ministry of Finance vide their U.O. No.5913 E.III(A)/78 dated 19.8.1978.

Yours faithfully,

sd/-

( K. N. Nayar )

Under Secretary to the Govt. of India

Copy to :

1. The Pay and Accounts Officer, Geological Survey of India, Calcutta
2. Ministry of Finance (Department of Expenditure, E.III(A) Section.
3. I.F. Section, with reference to their No.2745/78-IF dt.26.6.1978.
4. Controller of Accounts, Department of Mines, New Delhi.
5. P.S. to Secretary.

sd/-

( K. N. Nayar )

Under Secretary to the Govt. of India



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Annexure T 100

88

STATEMENT SHOWING THE POSTS INVOLVING MERGER/REDESIGNATION AND  
REVISION OF SCALE OF PAY

Existing Designation	Existing Scale of pay (Rs.)	Revised Designation	Revised Scale of pay (Rs.)
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GEOLOGY STREAM

Sr. Tech. Asstt. (Geology)	550/-900/-	Sr. Tech. Asstt (Geol.)	550-25-750-EB-30-900/-
Sr. Tech. Asstt. (Pet/Pal)			
Jr. Tech. Asstt. (Geology)	425-700/-	Jr. Tech. Asstt (Geol.)	425-15-500-EB-15-560-20-700/-
Tech. Asstt. (Pet/Pal)			
Laboratory Asstt. (Pet/Pal)	380-560/-		
Laboratory Asstt. Museum (Pet/Pal)	330-480/-	Laboratory Asstt. (Geol.)	330-10-380-EB-12-500-EB-15-560/-
Head Section Cutter	330-480/-		
Museum Atttd. Section Cutter	210-290/-	Technical Operator (Geol.)	210-4-226-EB-4-250-EB-5-290/-

CHEMICAL STREAM

Sr. Tech. Asstt. (Chemical)	550-900/-	Sr. Tech. Asstt (Chem)	550-25-750-EB-30-900/-
Jr. T.A. (Chem.)	425-700/-	Jr. T.A. (Chemical)	425-15-500-EB-15-560-20-700/-
Class Blower			
Laboratory Asstt. (Chemical)	380-560/-	Laboratory Asstt.	380-12-500-EB-15-560/-
Laboratory Operator (Chem)	260-430/-		
Tech. Atttd.	210-270/-	Tech. Operator	210-4-226-EB-4-250-EB-5-290/-
Laboratory Atttd.	210-270/-		

(COPY)

Annexure  
66  
ANNEXURE - 1  
89

Government of India  
Ministry of Steel and Mines  
Department of Mines

No. J-11011/171/78-M.2

New Delhi, the 17th July, 1981

To  
The Director General,  
Geological Survey of India,  
Calcutta.

Sub : Merger of Group C and D cadres in the G.S.I.

Sir,

I am directed to refer to your letter No.640M/  
A-11014/2/78/16A dated 2nd May, 1981, on the subject  
mentioned above, and to say that the President in partial  
modification of para 3 of this Ministry's letter No.  
A-11019/2/78-M.2 dated 24th August, 1978, is pleased to  
decide that these orders will take effect from 20.12.1980.  
Payment of arrears, etc. to employees on account of these  
orders may accordingly be regulated according to the revised  
dated of effect of these orders.

Yours faithfully

sd/-  
( H. L. ARRI )  
Under Secy. to the Govt. of India

(67)

Annexure - II 90

AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985.

Title of the Case ... Geological Survey of  
India Employees  
Association & others ... Applicants  
- versus -  
Union of India & Ors... Respondents.

I N D E X

<u>S.No.</u>	<u>Description of documents relied upon</u>	<u>Page No.</u>	<u>Annexure</u>
1)	Application	1 to 17.	
2)	Letter of appointment being Memo. dated 11.9.1984	_____	'A'
3)	Recruitment rule	_____	'B'
4)	Representation dated 27.2.1987	_____	'C'
5)	Order and judgment dated 31.7.1990	_____	'D'
6)	Lawyer's letter dated 7.9.1990 and dated 26.11.1990	_____	'E'
7)	Impugned Memo. being dated 30.11.1990 dated 7/21.12.1990 and dated 21.12. 1990	_____	'F'

For use in Tribunal's office.

Signature of the Applicant.

Date of filing -

or-

Date of receipt by post -

Registration Number -

Signature  
for Registrar.

CALCUTTA BENCH.

- 1) Geological Survey of India Employees Association, 29, Jawaharlal Nehru Road, Calcutta - 16.
- 2) Nibir Kumar Bose, Secretary General, Geological Survey of India Employees Association, 29, Jawaharlal Nehru Road, Calcutta - 16.
- 3) Arabinda Das, son of M.K. Das, aged about 23 years, Technical Operator (Chemical) under Director General, Geological Survey of India, Calcutta.
- 4) Aparna Choudhury, son of P.P. Choudhury, aged about years, working as Technical Operator (Geological) under D.G., GSI, Calcutta.
- 5) Ranjit Kumar Mandy, son of Late M.N. Mandy, aged about 34 years, working as Technical Operator (Chem) under D.G., GSI, Calcutta.
- 6) Bimal Chandra Ghosh, son of N.J. Ghosh, aged about 34 years, working as Technical Operator (Chem) under G.S.I., Calcutta.
- 7) Indrajit Ghosh, son of M. Ghosh, aged about 35 years, working as Technical Operator (Chem.) under G.S.I., Calcutta.
- 8) Swapan Kumar Manna, son of Late A.K. Manna, aged about 34 years, working as Technical Operator (Chem) under G.S.I., Calcutta.
- 9) Abdul Samad Saik, son of N.R. Saik, aged about 31 years, working as Technical Operator (Geological), under GSI, Cal.
- 10) Gouranga Roy Choudhury, son of G.P. Roy Choudhury, aged about 26 years, working as Technical Operator under G.S.I., Calcutta.

- No. 3 to 10 are all working under Director General, G.S.I., 27, Jawaharlal Nehru Road, Calcutta - 16.

... Applicants.

(69)

- Versus -

Amended No. 1

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- 1) Union of India, service through the Secretary to the Government of India, Ministry of Steel & Mines, Department of Mines, New Delhi. Sastri Bhawan, New Delhi.
- 2) Geological Survey of India, service through the Director General, having office at 27, Jawaharlal Nehru Road, Calcutta - 13.
- 3) Director General, Geological Survey of India, having office at 27, Jawaharlal Nehru Road, Calcutta - 700 013.

..... Respondents.

DETAILS OF APPLICATION.

- 1) Particulars of the orders against which application is made.

The application is made against -

- i) the arbitrary, whimsical and discriminatory treatment meted to the applicants by not assigning proper pay scale commensurate with the Class and Classification of post in spite of repeated requests made therefor.
- ii) Memo. No. 452/A-11021/88/16A-1 dated 30.11.1990 of the Administrative Officer, for Director General, GST, addressed to Sri M.K. Bose and others, enclosing therewith a copy of the Ministry of Steel & Mines, Deptt. of Mines letter No. A-26022/6/87-M.II dated 27.4.1988 purporting thereby the refusal the prayer of the applicants for assignment of proper pay.
- iii) Memo. No. 4630A/3/1(457)/Law-59/88 dated 7.12.1990//21.12.1990 of Administrative Officer for D.G., GST, Cal enclosing therewith copy of above Memo. dated 30.11.1990 along with copy of the letter from the Ministry as above.

...P.T.O. 3.

(70)      Annexure XI

iv) Memo. No. A-26022/10/90-11.2 dated 21.12.1990 from the Director, Govt. of India, Ministry of Steel & Mines Deptt. of Mines addressed to Sri Samir Kumar Ghosh, Advocate, High Court, Calcutta, reiterating the decision of rejection of the prayer of the applicants for proper pay. 93

2) Jurisdiction of the Tribunal.

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3) Limitation.

The applicants further declare that the application is made within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4) FACTS OF THE CASE.

a) That your applicant No. 1 is the recognised Union representing the staff and workers of Geological Survey of India the Respondent No. 2 hereof (hereinafter referred to for short as GSI) and the applicant No. 2 is the Secretary General of the applicant No.1.

b) Your applicants state that your applicants No. 2 to 9 are the employees of GSI holding civil posts within the meaning of Article 311 of the Constitution of India and are citizens of India.

c) Your applicants state that your applicants No. 2 to 9 are holding the post of Technical Operator (Chemical)/(Geological as mentioned in the Cause Title working under Director General of GSI and joined the posts since 1980 onwards on diverse dates which post was assigned the pay scale of Rs.210-290 (unrevised). In this context your applicants crave leave to refer to the respective letters of appointment of your applicants at the time

(77)

Annexure XI

of hearing and further treat the same as part hereof, if necessary. 94

A Xerox copy of one of which letter of appointment dated 11.2.1984 issued in favour of your applicants No. 3 and No. 5 is <sup>106</sup> annexed hereto and marked with the letter - 'A'.

A

d) Your applicants state that the amended recruitment rules for appointment to the said post of Technical Operator were framed and published in the Official Gazette in 1980 which inter alia postulate that the post is classified as GENERAL CENTRAL SERVICE GROUP 'C' (NON-INDUSTRIAL/NON-GAZETTED), carry a pay scale of Rs. 210-290/- and the educational and other qualification required for direct recruitment were prescribed as

- 1) Matriculation or its equivalent,
- 2) 2 years' experience in any laboratory viz. Chemical/Petrological/Mineral Physics or in Section Cutting.

Your applicants crave leave to refer to the said recruitment rules at the time of hearing of this application and further treat at the same as part hereof for their import, scope and effect, a Xerox copy whereof is also annexed hereto and marked with the letter - 'B'.

B

e) Your applicants state that the Central Civil Services (classification, Control & Appeal) Rules, 1965 postulate that

- i) A Central Civil Post carrying a pay or a scale of pay the maximum of which is Rs. 290/- or less - is classified as Group - 'D' post
- and -
- ii) A Central Civil post carrying a pay or a scale of pay with a maximum or over Rs. 290/- but less than Rs. 900 is classified as Group 'C' post.

And as per the recommendations of the 4th Pay Pay Commission and acceptance thereof the said Group-I post carry a pay scale of Rs. 800-1150/-

- A N D -

Group 'C' post carry a pay scale of Rs. 975-1540/-.

(72) Annexe X  
95  
10X

but the pay and scale at par and commensurating to Group-C post in terms of the CCS(CCA) Rules, 1965 was not assigned and the pay and the scale assigned was and/or is similar to that of Group-D post which assignment of lower pay scale was not only arbitrary, illegal, whimsical but also in violation of the fundamental rule of law and the statutory provisions within the meaning of CCS(CCA) Rules.

b) Your applicants state that in the Botanical Survey of India the pay scale and pay for similar and/or identical post was assigned Rs.260-430/- unrevised since revised to Rs.975-1540/- (RP) as per the recommendations of 4th Pay Commission but your applicants herein and other similarly circumstanced employees were, from the very inception, being treated in a different and discriminatory manner and they were being given a lower pay and scale of that of Group - D post and not the pay and scale of Group-C post though requiring higher educational qualification and carrying higher duties and responsibilities than that of Group-D posts.

1) Your applicants state that against the arbitrary, illegal and illegal move and acts and activities of the respondent authorities and non-assignment of proper pay and scale commensurating to and at par with the past pay and scale of other departments under the Central Government and in accordance with the pay scale assigned in the said CCS(CCA) Rules and the discriminatory treatment meted to your applicants, your applicants both individually, collectively and through the Association were representing their case to the authorities concerned for ameliorating their genuine grievances and for elimination of the discriminatory treatment meted to your applicants and the members of your applicant No. 1 to which your applicants crave reference at the time of hearing and further treat the same as part hereof, copies of some of which are annexed hereto and marked with the letter -, 'C' collectively.



(73) *Annexure 96*

In this context your applicants crave leave to refer to the said CCS(CCA) Rules 1963 and the recommendations of the 4th Pay Commission at the time of hearing and further treat the same as part hereof for their import, scope and effect, if necessary.

f) Your applicants state that the Fundamental Rules provide that Group - D employees will retire from service on superannuation on attainment of the age of 60 years, whereas employees belonging to Group-C posts will retire on attainment of the age of 58 (fifty eight) years and since the Technical Operators viz. your applicants and others, as per the rules, are to retire from service on attainment of the age of 58 years (and not at 60 years like the Group - D post) the same makes it crystal clear that the said post of Technical Operator belong to Group-C post.

g) Your applicants state that from a plain reading of Paras (d), (e) and (f) above it would be crystal clear that the post of Technical Operator has been classified and is Group-C post and the educational qualification (Matriculation or equivalent) has also been prescribed same and similar to that of other Class-III/Group-C posts as also the age of superannuation/retirement prescribed the same and similar to that of Group-C post

- B U T -

strangely enough the pay scale has been assigned for the post of Technical Operators similar to that of Group-D post and not at par and/or commensurating to the pay scale of Group-C posts as postulated in the said CCS(CCA) Rules, 1963 (since revised).

g) Your applicants state that since your applicants herein and others who are the members of your applicant No. 1 were appointed in Group-C posts their pay and pay scale ought to have been assigned at par and commensurating to the Group-C posts and not otherwise but in the instant case though in the recruitment rules the post is described and/or classified as Group-C post

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*Annexure 1*  
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j) Your applicants state that the respondent authorities vide letter dated 10.12.1987 addressed to the Secretary General of your applicant No.1 informed inter alia to the effect that the revised pay scale attached to the post of Technical Operator (Chemical Geological) will be Rs.500-1150/- on implementation of the 4th Pay Commission recommendations though it was clearly stated that the said posts were and/or are Group-C posts, to which letter dated 10.12.1987 your applicants crave reference at the hearing and further treat the same as part hereof, if necessary.

k) Your applicants state that when admittedly the post held by your applicants No. 3 to 9 and the members of your applicant No.1 viz. Technical Operators for which, as per the recruitment rules, educational qualification has been prescribed as Matriculation besides the age of superannuation/retirement prescribed as 58 years which are prescribed for no Class-IV and/or Group-D post under the Central Government and the Technical Operators working under the Botanical Survey of India are treated and classified as Group-C posts is bound to be held to be Group-C post and as such they cannot and could not be assigned different scale of pay prescribed for Group-C posts and they cannot be meted with patent discrimination and meted with dissimilar treatment and scale of pay by the respondent authorities taking advantage of their situation as in the instant case which was arbitrary illegal, whimsical without any basis germane therefor besides being violative of the principles of natural and procedural justice equity, fair play as also the constitutional provisions enshrined under Articles 14 and 16 of the Constitution of India and the same further purport to encroach upon the fundamental right of your applicants which cannot be taken away and/or denied by the respondent authorities on no plea and in any manner whatsoever.

(75) Annexure 98

1) Your applicants state that the authorities concerned who are respondents herein in gross violation of the principles of natural and procedural justice and the fundamental rule of law in a discriminatory manner fixed the pay scale of Group-D posts for the post which is classified as Group-C post by the authorities themselves including in the Recruitment Rules which postulate for educational qualification as Matriculation or equivalent and age of retirement as 58 years as applicable in all Class-III/ Group-C posts (and not at all prescribed for any Group-D post) and the assignment of lower pay and scale for higher post by the respondent authorities is bound to be held to be arbitrary, illegal, whimsical, discriminatory, and the same is vitiated by the vices of violation of the constitutional provisions enshrined under Articles 14 and 16 of the Constitution of India as also the fundamental rules.

a) Your applicants state that against the non-assignment of proper pay and scale viz. Rs. 975-1540/- retrospectively and for non-drawal and non-disbursement of arrears and fixation of pay prescribed for Group-D posts your applicants moved an application under Section 19 of the Administrative Tribunals Act, 1985 before this Hon'ble Tribunal which was registered as O.A. No. 1009 of 1987 in which the respondents also entered appearance which was ultimately heard by their Lordships the Hon'ble Mr. Justice A.P. Bhattacharyya sitting with the Hon'ble Mr. D.R. Chakraborty and their Lordships upon hearing the learned Advocates appearing for the parties, were pleased to deliver judgement and order on 31st of July, 1990 inter alia, to the following effect -

..... The Id. Counsel for the applicants emphatically averred that there is serious anomaly in giving the applicants a pay scale which is admittedly applicable to Group-D employees but at the same time classifying the post in Group-C. Due to this anomaly the applicants suffer

(76) Annexure 7 99-

from double jeopardy / disadvantage of drawing pay in a lower scale which is not commensurate with their status as Group-C employees and also they have to retire two years earlier than the corresponding employees in the same pay scale who have been classified as Group-D. The Ld. Standing Counsel for the respondents stated that as already explained in their reply, the Government has fully implemented the specific recommendations of the 4th Pay Commission and there is no anomaly as such. However, the representations submitted by the applicants are pending with the Govt. and the final decision is expected to be taken shortly. The application is, therefore, premature.

In the facts and circumstances of the case, we direct the respondents to dispose of the representations of the applicants within a period of three months from the date of this order.

A Xerox copy of the certified copy of the order and judgement dated 31.7.1990 of the Hon'ble Tribunal is annexed hereto and marked with the letter - 'D'.

n) Your applicants state that though the order and judgement was passed after hearing the Learned Advocate appearing for the respondent authorities also and the respondent authorities were in the know of the same but they did not deal with and/or dispose of the said representations of the applicants which is Annexure-C to this application as also Annexure-C to the said petition of motion, consequent upon which the Learned Advocate of your Applicants while quoting the relevant portion of the said order and judgement as also enclosing a copy thereof, wrote a letter to the respondent authorities requesting them to comply with the said order and judgement of the Hon'ble Tribunal, a copy of which letter is annexed hereto and marked with the letter-E.

(77) Annexure I 107

o) Your applicants state that ineptitude of communication and knowledge of the order and judgement of the Hon'ble Tribunal, the respondent authorities did not comply with the same and did not deal with and/or dispose of the said representations of your Applicants consequent upon which the Learned Advocate of your applicants again wrote a letter on 26.11.1990 to the respondent authorities reminding them of the orders passed by the Hon'ble Tribunal and for compliance therewith, a copy thereof is also annexed hereto and included in Annexure-E herEOF.

p) Your applicants state that the Administrative Officer, for Director General of Geological Survey of India vide Memo. dated 30.11.1990/purported to enclose therewith a copy of the Memo.No. A-26022/6/87-M.II dated 27.4.1988 of the Ministry of Steel & Mines, Department of Mines which was sought to be self-explanatory which letter of the Ministry in fact and effect purport to negate the claim and prayer of the applicants for assignment of proper pay and scale of Group - C, posts. A copy of the said Memo. dated 30.11.1990 as also the copy of the Memo. dated 27.4.1988 of the Ministry is annexed hereto and marked with the letter - 'P'.

It is stated in this context that under cover of letter dated 7.12.1990/21.12.1990 copy of the said letter dated 30.11.1990 along with the enclosure thereof viz. the Memo. dated 27.4.1988 of the Ministry, was also endorsed to the Learned Advocate of your applicants copy whereof is also annexed hereto and included in Annexure-F herEOF.

It is also stated that the Director, Ministry of Steel & Mines, Department of Mines also wrote a letter on 21.12.1990 to the Learned Advocate of your applicants reiterating the decision contained in letter of the Ministry dated 27.4.1988 as also that it was not feasible at this late stage to reopen the recommendations of the Review Committee of 1978, a copy whereof is also

Annexure  
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(78)

annexed hereto and included in Annexure - F hereof.

q) Your applicants state that when admittedly the post of Technical Operator (Chemical) Geology is classified as Group-C postulating the educational qualification of Matriculation or equivalent therefor and prescribing the age of retirement as 58 like other Group-C employees as also the Technical Operators in other departments under the Central Government have been assigned proper scale of pay in terms of the CCS(CCA) Rules in question, assignment of pay scale equivalent to the pay scale of Group-D posts whose age of retirement from service is 60, and not 58 years for which post educational qualification is also not prescribed as Matriculation, and when right to receive at par with others and/or equal pay for equal work, is legal and fundamental the said fundamental right cannot and could not be sought to be negated and/or denied on the plea of 'too late' or any plea whatsoever taking advantage of their own laches or lapses and/or executive action rendering the entire acts and activities of the respondent authorities in the matter of refusal of the prayer for fixation of proper pay to be arbitrary, illegal, whimsical, bad in law, without jurisdiction, violative of the principles of natural and procedural justice, fundamental rule of law and the constitutional provisions enshrined under Articles 14 and 16 of the Constitution of India and on this ground alone the purported communication and/or the Memo contained in Annexure F hereof including the letter of the Ministry dated 27.4.1988 ought to be struck down in limine.

r) Your applicants state that since the cause of action are same and similar and the relief sought for are also same and similar, your applicants are advised to move this application jointly and pray for leave under Rule 4(5)(a) of the Administrative Tribunals (Procedure) Rules, 1987, for redressal of their grievances.

(79) *Annexure x*

5) Grounds for Relief with legal provisions. 102

I) For that the post of Technical Operator (Chemical/Geology) having been classified as Group-C post with requirement of educational qualification of Matriculation or equivalent, experience, condition of service including age of retirement viz. 58 years like other Group-C employees under the Central Government, cannot and could not be assigned a similar scale and/or lower scale of pay of Group-D posts instead of scale of pay assigned to other Group-C posts working under the Central Government in terms of the CCS(CCA) Rules, without rendering the same to be bad in law, without jurisdiction and discriminatory.

II) For that the post held by the applicants and others who are members of the applicant No. 1 being Group-C post for which statute provides specific scale of pay viz. the CCS(CCA) Rules, cannot be assigned lower scale of pay which actually is meant for Group-D posts by the respondents herein as in the instant case taking advantage of their own position in an executive fiat which show not only their mechanical usurpation of power but also violation of equity, fair play, justice and the fundamental rule of law.

III) For that the respondent authorities being statutory authorities cannot and could not act and proceed in an executive fiat and assign a pay scale for the higher post, which pay scale is in fact meant for the lower post viz. Group-D post and cannot deny assignment of higher and proper pay scale to the applicants on any plea whatsoever for loss to speak of being 'too late' as sought to be done in the instant case and on this ground alone the purported orders and the communications contained in Annexure - F hereof, ought to be struck down in limine.

(80) Annexure 103

IV) For that the applicants and others who are the members of the applicant No.1 admittedly being classified as Group-C employees in terms of the classification made in the recruitment rules having the taste of Article 309 of the Constitution, cannot be assigned pay scale which is admittedly the pay of Group-D employees by the authorities concerned in an executive fiat and the same being arbitrary, illegal, whimsical and also violative of the statutory requirements and provisions and the constitutional provisions enshrined under Articles 14, 16, 309 of the Constitution of India, renders the purported decision and communications contained in Annexure-F hereto <sup>liable</sup> to be struck down in limine.

V) For that right to receive equal pay for equal work and proper pay is legal, fundamental and constitutional and as such assignment of lower pay scale for the higher classified Group-C post in an executive fiat by the respondents and refusal of the prayers so made by the respondents show not only the arbitrary, illegal and whimsical move and acts and activities of the respondents herein but the same also purport to strike at the very root of the constitutional provisions enshrined under Articles 14 and 16 of the Constitution of India rendering the purported decision and communication contained in Annexure-F hereto liable to be struck down in limine.

VI) For that when the representations were sought to be disposed of by forwarding a Memo. of the Ministry dated 27.4.1988 the same go to show that the respondents deliberately and wilfully, with a view to frustrate the rightful and legitimate claim for equal and proper pay of the applicants, filed their reply stating that the representations were pending, on the basis whereof the application was disposed of directing to dispose of the same within 90 days but the respondents having not complied therewith the applicants had to cause service of notice through



(81) *Annexure F* 104  
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their Learned Advocate for violation of the orders of the Hon'ble Tribunal, which non-action and/or inaction within the time ordered for by the Hon'ble Tribunal show the purported move of the respondents to negate and/or frustrate the rightful and legitimate claim of the applicants for equal pay for equal work and as per the statutory provisions and the CCS(CCA) Rules.

VII) For that the purported decision and communication contained in Annexure-F hereof were bad in law, without jurisdiction and the same were for, their arbitrary and mala fide aimed at denying the applicants equal pay for equal work as also their fundamental legal and constitutional right.

VIII) For that the respondent authorities cannot take advantage of their own situation and cannot deny the rightful and legitimate claim of the applicant which besides being statutory was also fundamental and constitutional, as on the plea of being 'too late' specially when fundamental right cannot be taken away on any plea whatsoever and on this ground alone the purported decision and the communications contained in Annexure - F hereof ought to be struck down in limine.

IX) For that malice in law and fact were patent from the face of the denial of legal, fundamental and constitutional right of the applicants to receive proper salary and pay as also from the face of the purported decision and communication contained in Annexure - F hereof.

X) For that mala fide is the foundation of the purported decision and the communications contained in Annexure-F hereof as also the assignment of pay scale meant for Group -D posts to the applicants holding Group-C post.

6) Details of remedies exhausted.

The applicants declare that they have availed of all the remedies available to them under the relevant services rules and made representation as contained in Annexure-C hereof as also the

notices ~~thru~~ through their Learned Advocates contained in 105

Annexure-E hereof, but to no effect.

- 7) Matter not previously filed or pending with any other court.

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the order in respect of which this application is made, before any court or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

- 8) Relief(s) sought.

In view of the facts mentioned in para 4 above, the applicants pray for the following relief (s) -

- a) To cancel, withdraw and/or rescind the purported decision and the communications contained in Annexure-F hereof including the letter of the Ministry dated 27.4.1988 referred to therein purporting thereby to deny proper pay and pay scale to the applicants and members of the applicant No.1 and to reject the representations made therefor.
- b) to direct the respondents to assign the pay scale to the post of Technical Assistant (Chemical/Geology) viz. Rs.97-1540/- as assigned to Group-C posts retrospectively and to draw and disburse arrears of salary arising out therefrom to the applicants and others viz. the members of the Applicant No.1.
- c) To grant leave to move this application jointly under Rule 4(3)(a) of Administrative Tribunals (Procedure) Rules, 1987, since the cause of action and the relief sought for are same and similar.
- d) And to pass such further or other order or orders as to your Lordships may seem fit and proper.

And your applicants as in duty bound shall ever pray.

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9) Interim relief, if any, prayed for.

Pending final decision on the application, the applicant seeks issue of the following interim order,

- 1) Injunction restraining the respondents from giving any effect or further effect to the Impugned decision and rejection of the representation of the applicants being Memo. dated 30.11.1990, dated 7/21.12.1990 and dated 21.12.1990 including the letter of the Ministry dated 27.4.1988 contained in Annexure-F herof and further directing the respondents to assign the pay scale prescribed and recommended for Group-2 C posts viz. Rs. 975-1540/- in place and instead of Rs. 800-1150/- and further directing the respondents to change and revise the pay scale accordingly in no time.

That unless the relief sought for were granted the applicants would suffer irreparable loss and injury.

That this application is made bonafide and for the ends of justice, equity and fair play.

10) Does not arise.

11) Particulars of Postal order.

Postal order No. \_\_\_\_\_ dated \_\_\_\_\_ 1991.

12) List of enclosures.

- 1) Appakxakam Indian Postal order for Rs. 50.00
- 2) Letter of appointment being Memo. dated 11.9.1984.
- 3) Recruitment rules of Technical Asstt. (Geology) & (Chemical)
- 4) Representation dated 27.2.1987
- 5) Order and judgement dated 31.7.1990.
- 6) Letter of Learned Advocate dated 7.9.1990 and 26.11.1990
- 7) Purported decision and communication being Memo. dated 30.11.1990, 7/21.12.1990 and dated 21.12.1990.

... Annexure. contd

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Annexure x/

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VERIFICATION.

I, Mihir Kumar Bose son of Late N.C. Bose,  
aged about 52 years, ~~with the following details~~ being the <sup>Secretary</sup> General  
of the applicant No. 1 and the applicant No. 2 hereof do  
herby state that I am duly authorised by the other applicants  
to verify this application on their behalf and thus being  
authorised and competent as such I verify that the contents of  
paras 1, 2, 3, 4, 6, 7, 10, 11 and 12 are true to my personal  
knowledge and paras 5, 8 and 9 believed to be true on legal  
advice and that I have not suppressed any material fact.

Signature of the Applicant.

Date -

Place - Calcutta.

To

The Registrar,  
Central Administrative Tribunal, Calcutta Bench,  
Nizam Palace, 11th Floor, Acharyya J.C. Bose Road,  
Calcutta - 20.

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

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Annexure  
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O.A. 142 of 1991

Present : Hon'ble Mr. Justice S.C. Mathur, Chairman  
Hon'ble Mr. Justice M.R. Mallick, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

GEOLOGICAL SURVEY OF INDIA  
EMPLOYEES' ASSOCIATION & ORS.

-VS-

UNION OF INDIA & OTHERS



For applicants : Mr. Samir Kumar Ghosh, counsel  
For respondents : Mr. D.N. Das, Sr. Counsel  
Mr. C.R. Bag, counsel

Heard on : 2.1.1995

Judgment on : 3.1.1995

J U D G M E N T


M.R. Mallick, VC

This matter has been referred to Full Bench by the Division Bench comprising Hon'ble Mr. Justice M.R. Mallick, Vice-Chairman and the Hon'ble Mr. M.S. Mukherjee, Administrative Member by the order dated 1.12.1994 to decide the following questions :-

- i) Whether the present applicants are entitled to get the higher pay scale of Rs. 975-1540/- w.e.f. 1.1.86 ; and
- ii) Whether the order of the Department of Mines dated 27.4.88 as shown in Annexure-F to the application is liable to be quashed.

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2. The facts of the case may be briefly stated as follows :-

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1) A joint application has been filed being O.A.142 of 1991 by the G.S.I. Employees' Association and 9(nine) Technical Operators(Chemical/Geological) being aggrieved that inspite of the repeated representations, they have been denied the scale of pay of Rs.975-1540/- w.e.f. 1.1.1986 i.e. minimum pay scale of L.D.C. under the revised scale of pay, even if the Technical Operators(Chemical/Geological) have been granted the status of Group 'C' employee. Even if their status have been elevated from Group 'D' to Group 'C', but their pay scale of Rs.196-230/- and Rs.210-290/- as per the recommendations of the 3rd Pay Commission had not been revised and with effect from 1.1.1986, they were granted the corresponding revised pay scale of Rs.800-1150/-. But as they have been classified as a Group 'C' employees, they were entitled to the un-revised pay scale of Rs.260-400/- and the corresponding revised scale of pay was Rs.975-1540/-.



ii) The applicants filed an earlier application seeking same relief in O.A.1000 of 1987 and the Division Bench of this Tribunal, by its order dated 31.7.90, on the submissions made by the respondents' Id. Advocate that the representations of the applicants praying for the scale of pay of Rs.975-1540/- were pending decision before the Ministry and the Geological Survey of India forwarded their representation dated 30.4.87 and the decision of the Ministry was expected shortly, directed the respondents to dispose of the representation of the applicants within a period of three months from the date of communication of that order. After the said judgment has been delivered, the Administrative Officer for /

Director General, Geological Survey of India forwarded the applicants the Ministry's letter dated 27.4.88, which purported to reject the claim of the applicants for the higher scale of pay of Rs.975-1540/-.

iii) It, therefore, appears that even if before the dismissal of the earlier original application the Ministry had already taken a decision rejecting the claim of the applicants, the Director General, G.S.I. did not communicate such decision to the applicants and the Tribunal gave the respondents direction to dispose of the representations.

iv) However, as the copy of the letter dt.27.4.88 has been communicated to the applicants by the letter dated 30.11.90, the applicants have filed this application challenging the said letter dated 27.4.1988 and have prayed for quashing the same and for granting them scale of pay of Rs.975-1540/-.

3. When this matter was heard by the Division Bench, a judgment delivered by Cuttack Bench of this Tribunal in OA.177 of 1993 dated 11.8.94 was produced before the Division Bench, in which the Cuttack Bench granted the Technical Operators of the G.S.I. working within the jurisdiction of the above Bench the higher scale of pay of Rs.975-1540/-.

4. Before the Division Bench, Mr.D.N. Das, Id Advocate appearing for the respondents referred to us the judgment of Bangalore Bench of this Tribunal in OA.1153-64 of 1988 (T.S.Rabindra & Ors. v. Union of India & Ors.), decided on 17.3.89, a copy of which has been annexed to the reply of the respondents as Annexure-R6 and has submitted that the Bangalore Bench of this Tribunal had decided the case of the Technical Operators of the G.S.I., who also claimed the/

11/12/83

pre-revised scale of Rs.260-430/- and the revised pay scale of Rs.975-1540/- with effect from 1.1.1986 and the said applications had been rejected by the Tribunal. It was, therefore, submitted that the Cuttack Bench of the Tribunal did not refer to the earlier Division Bench judgment of the Bangalore Bench and when the Bangalore Bench, on considering the case from all its aspects dismissed the applications of similar Technical Operators of the G.S.I., working in the jurisdiction of the Tribunal, then this Tribunal should not follow the judgment passed by the Cuttack Bench.

In view of the above conflicting decisions, the Division Bench referred the matter to Full Bench.

Mr. Samir Kr. Ghosh, Ld. Advocate appearing for the applicants, has urged before us that before the Calcutta Bench, the judgment of the Bangalore Bench was also referred to by the Ld. Advocate for the respondents and in spite of that judgment, the Division Bench of the Tribunal directed the respondents to dispose of the representations of the applicants. He also points out that the Bangalore Bench even took note of seeming disparity. But relying on the judgment of the Supreme Court in *State of U.P. v. T.P. Chaurasia*, reported in A.I.R. 1989 S.C. 19 that the matter of equivalence of posts and pay scales, should best be left to the sound judgment of expert bodies, like the Pay Commission, the Bangalore Bench dismissed the applications finally on being satisfied that no injustice has been caused to the applicants in granting them the revised pay scale, which was actually granted to them.

*[Signature]*



- 2 - *Annexure 1* (12) 124  
(89) 112

7. Mr. Ghosh has submitted before us that when the Cuttack Bench of this Tribunal has referred this matter to the respondents to dispose of the representation finally and the representation has been disposed of finally, the applicants can very well challenge the said decision in this original application and the case should not be dismissed only on the ground that the Bangalore Bench of this Tribunal has rejected the claim of the applicants.

8. Mr. D.N. Das, Sr. Advocate appearing for the respondents, has relied upon the judgment of the Bangalore Bench. He has also submitted that the Cuttack Bench of the Tribunal, without taking note of the decision of the Bangalore Bench of this Tribunal and without assigning any appropriate reasons whatsoever directed the respondents to grant the Technical Operators the higher scale of pay and the applicants cannot get the benefit of the judgment passed by the Cuttack Bench. It is also submitted by Mr. Das that now that the 5th Pay Commission has already been constituted, the Full Bench may be pleased to direct the respondents to refer the case of the Technical Operators to the 5th Pay Commission for appropriate adjudication and when a technical body, like Pay Commission has already been constituted, the applicants' grievance, if there be any, may now be scrutinised properly by such Pay Commission.

9. We have given our anxious consideration to the submissions made by the Ld. Advocate for the applicants and the Ld. Advocate for the respondents. We have also perused the impugned order passed by the Ministry dismissing the claim of the applicants regarding their scale of pay of Rs. 975-1540/-. On such ground on which the claim has been rejected is that the



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applicant did not refer the matter to the 4th Pay Commission. However, it is submitted on behalf of the applicants that the matter was taken up with the 4th Pay Commission, but the 4th Pay Commission did not take any note about their grievance.

10. Now that the 5th Pay Commission has been constituted, in our opinion, it will be fit and proper that the case of the applicants for granting them minimum pay scale of Group 'C' employees, which they have been claiming for a pretty long time be examined by the said Commission. For this a reference will have to be made by the respondents.

11. In our opinion, O.A. 177/93 was not correctly decided by the Cuttack Bench of this Tribunal. It needs to be pointed out that the Bench did not have the assistance of a reply on behalf of the respondents, nor the earlier judgment of the Bangalore Bench was brought to its notice. The Cuttack Bench has also not examined the matter in detail as has been done by the Bangalore Bench.

12. The Division Bench had formulated two questions, which have already been reproduced hereinabove for answer by the Full Bench. Since we are of the opinion that the matter should be examined by the Pay Commission, it is not necessary for us to answer the said questions. On the basis of the above discussion, the original application can be finally disposed of. In our opinion, no useful purpose will, therefore, be served by first answering the questions and again directing the original application to be listed before the Division Bench for its disposal. Accordingly, we are disposing of the original application finally.

13. In view of the above, the original application is disposed of finally by directing that the respondents shall refer the

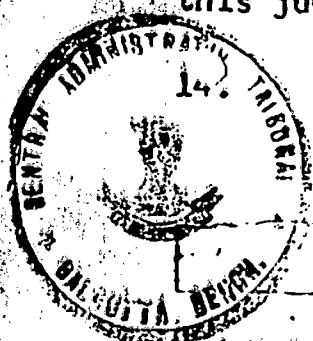


*[Signature]*

- 7 - *Annexure 2* (12) 128  
 (99) 114

claim of the applicants to the 5th Pay Commission within a period of 3(three) months from the date of communication of this judgment under advice to the applicants.

There shall be no order as to costs.



*Sch*  
 3/1/95  
 ( M.S. Mukherjee )  
 Member (A)

*Sch* *Sch*  
 ( M.R. Mallick ) ( S.C. Mathur )  
 Vice-Chairman Chairman

3/1/95

**CERTIFIED TO BE TRUE COPY**

*[Signature]*  
 COURT OFFICER  
 Central Administrative Tribunal  
 Calcutta Bench, Calcutta

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 C.R. 1995  
 (a) SI No of the "Applicant" .....  
 (b) Name of the applicant .....  
 (c) Dt. of presentation of application for copy ..... 03/1/95  
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*S.K.S.*  
 19/1/95

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Attachment X II  
(92)

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# Report of the Fifth Central Pay Commission

VOLUME II

January 1997

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92/ Annexure - X/1

the erstwhile Metal Corporation of India to own, manage and develop smelting capacities for the strategic zinc and lead metals in the country. Hindustan Copper Ltd. is the sole indigenous producer of primary copper in the country. The Kolar gold fields in Karnataka are owned and managed by the Bharat Gold Mines Ltd. and the Sikkim Mining Corporation produces polymetallic ore treated in the concentrator plant producing copper, lead and zinc concentrates. The Mineral Exploration Corporation Ltd. is responsible for detailed exploration, exploratory mining and proving reserves for their eventual exploitation.

### GEOLOGICAL SURVEY OF INDIA

#### Objectives, Role & Activities

76.4 The Geological Survey of India (GSI) was established in 1851, with the primary objective of finding deposits of coal in the country for railways and for the running of steam propelled barges in India. Since its inception, it has been rendering services for locating and harnessing the natural resources, management of risks due to natural hazards such as landslides, earthquakes, floods, defining and delineating areas prone to environmental degradation and to meet the information requirements in diverse fields of earth sciences, natural resource base and developmental missions. With the signing of the Law of Sea Conventions, GSI is now engaged beyond shorelines of the country to include mapping and inventory of resources in the Exclusive Economic Zone (EEZ). GSI is also actively participating in geoscientific expeditions and studies in the Antarctica.

#### Organisational setup

76.5 A subordinate office of the Ministry of Mines, the GSI is headed by a Director General in the scale of pay of Rs 8000 (fixed). It has its headquarters at Calcutta. It has six Regional Offices each headed by a Senior Deputy Director General (Rs 7300-7600) or a Deputy Director General (Rs 5900-6700). It also has four specialised wings, two at Calcutta and one each at Bangalore and Hyderabad, and a total staff strength of 17,216 manning its various units - 3,826 in Group D, 10,241 in Group C, 783 in Group B, and 2,366 in Group A - distributed over Scientific, Technical, Administration & Auxiliary streams, as shown in Annexure 76.1.

#### Distribution of establishment

76.6 We have made recommendations for the office support and auxiliary staff in the concerned chapters. The scientific & technical strength of the organisation comprises 3499 personnel at Group C level, and 577 at the Group B level. Of the total Group A strength of 2366, only 4 are encadred in the organised services - the Medical Officer (Rs 3000-4500) in the Central Health Service, the Director (Personnel) (Rs 3700-5000) is filled through the Central Staffing scheme, and the Deputy Director General (Finance) (Rs 5900-6700) and Director (F&A) are from the organised Group A Accounts Services. All the other posts are manned by the GSI.

#### Demands in Memoranda

76.7 A number of demands have been made by the GSI Officers and staff in memoranda which include upgrading the status of the Organisation to that of a full-fledged Department, upgrading various posts at different levels, particularly in view of the limited career prospects in the organisation, as well as constituting an organised service of Geological scientists. A 10% economy cut across the board in the establishment has resulted in a reduction of posts at the SAG level by 18. The GSI officers have contended that only 6 posts should have been reduced as 60 posts existed at the time of the organisation's second cadre

*Amended XII*

(93)

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## Ministry of Mines

### GENERAL INTRODUCTION AND HISTORICAL BACKGROUND

#### Background

76.1 The Ministry of Mines is responsible for survey and exploration of all minerals, other than natural gas, petroleum and atomic minerals, for mining and metallurgy of non-ferrous metals like aluminium, copper, zinc, lead, gold, nickel, etc. and for administration of Mines and Minerals (Regulation and Development) Act, 1957, as amended from time to time, in respect of all minerals other than coal, natural gas, petroleum and atomic minerals.

#### Organisational set-up

76.2 Headed by a Secretary, in the pay scale of Rs.8000 (fixed), the Secretariat of the Ministry presently comprises 276 posts spread over the various organised services, Secretariat staff, common categories and scientific and technical personnel. For personnel in the Secretariat - 51 in Group D, 125 in Group C, 73 in Group B, and 29 in Group A - our recommendations on pay-scales have been made in the relevant chapter. In the execution of its policies and programmes in the field, the Ministry is assisted by three subordinate offices:-

- i) The Geological Survey of India which executes regional mineral exploration, geological mapping, surveys on land, sea and airborne surveys as priority assignments;
- ii) The Indian Bureau of Mines which is engaged in promotion, conservation and development of mineral resources of the country;
- iii) The Controller of Mining Leases which is concerned with work relating to modification of all such mining leases which have been granted before 1972.

#### Public Sector Units

76.3 The Ministry is supported in its activities by 7 Public Sector Undertakings. The National Aluminium Co. Ltd. implements the Bauxite-Alumina-Aluminium project in Orissa, while the Bharat Aluminium Co. runs the complex at Korba, Madhya Pradesh. Hindustan Zinc Ltd took over from

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Annexe 712  
(94)

the erstwhile Metal Corporation of India to own, manage and develop smelting capacities for the strategic zinc and lead metals in the country. Hindustan Copper Ltd. is the sole indigenous producer of primary copper in the country. The Kolar gold fields in Karnataka are owned and managed by the Bharat Gold Mines Ltd., and the Sikkim Mining Corporation produces polymetallic ore treated in the concentrator plant producing copper, lead and zinc concentrates. The Mineral Exploration Corporation Ltd. is responsible for detailed exploration, exploratory mining and proving reserves for their eventual exploitation.

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review. Restoration of the excess cut has been demanded, along with creation of a Junior Time Scale (JTS) (Rs.2200-4000) level in the Administrative and Materials Management streams, where officers move directly from Group B to the Senior Time Scale (STS) (Rs.3000-4500). Because of very few posts at the higher level, a lot of stagnation is stated to be taking place. The administrative Ministry had agreed to create 59 posts in the Materials Management stream in 1987 in order to meet the additional workload of scientific and technical stores. The non-release of these posts has created difficulties in the materials management function, which have been sought to be alleviated by releasing these posts. Certain anomalies have been cited in the pay-scales of Technical Operators, who, while being classified as Group C, have been offered Group D pay-scales of Rs.800-1150. The different associations of the organisation have also demanded enhancement of the existing Field Preparatory and Establishment Allowances and introduction of new allowances for field duty in remote areas, special medical facilities for field parties and flight and high sea allowances for the officers of the Airborne and Marine Geology Wings, respectively, along with Insurance cover for air survey work.

**Status of GSI**

76.8. In the matter of upgrading the status of the GSI, the 4th CPC had observed that this was outside its purview. The Ministry has set-up a Board of Management with Secretary/Additional Secretary (Mines), as Chairman, and the Director General, GSI, geoscientific experts and others as members, which looks after the broader policy issues in matters of administration and operations. During oral discussions, the Secretary (Mines) stated that as a subordinate office, the GSI has been delegated adequate financial and administrative powers. Further delegation could also be considered if there was need. We have considered the issue and feel that the present status is appropriate for the GSI to enable it to remain an executive arm of the Ministry. Delegation of further powers should be considered by the Ministry on the basis of separate proposals in each functional area. The Board of Management may be wound up by delegating its powers to the Director General, GSI.

**Scientific & Technical streams**

76.9 As indicated in Annexure I, the scientific and technical officers are organised into 7 streams - Geology, Geophysics (Exploration), Geophysics (Instrumentation), Mineral Physics, Geo-chemistry and Drilling and Mechanical Engineering. Geophysics (Instrumentation) and Mineral Physics have small strengths compared to the other streams. While all the streams enter at JTS with 50% direct recruitment, there is some element (25%) of direct recruitment at STS level in Geophysics (Exploration), Geochemistry, Mineral Physics and Geophysics (Instrumentation). Each stream has its own career plan upto the SAG level, where all the streams merge into a common seniority for further advancement to HAG. This results in extreme stagnation and compartmentalisation on the one hand and disproportionate career advancement on the other, even within individual streams. The administrative Ministry itself has been extremely concerned with the problem of attracting and retaining fresh Geo-scientists by offering good career progression. It has stressed the need to introduce Flexible Complementing Scheme, as a way out. The Director General, GSI, has also suggested the need for re-organisation to give a scientific thrust and orientation to the work of GSI personnel. He also pointed out that at the time of the second cadre review, the Department of Personnel and Training suggested merger of some of the scientific and technical streams. We recommend that Mineral Physics and Geophysics (Instrumentation) may be merged with Geophysics (Exploration) to form a single stream of Geophysics. A Central Geoscientific Service may then be constituted comprising Geology, Geophysics and



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(16) *Amendments*

Geochemistry. As regards the Drilling and Mechanical Engineering streams they may be merged at the JTS level. Recruitment to the service should be through a competitive examination for entry into service through the UPSC. Direct recruitment above the JTS level may be abolished. The service may provide for 50% recruitment by promotion to JTS.

**SAG posts** 76.10 On the question of upgrading the SAG/HAG level posts on functional requirements, the 4th CPC recommended upgradation of three SAG level posts (Rs.5900-6700) to HAG (Rs.7300-7600), as "floating" for all the streams. This implies that an officer is promoted to the level of Sr. Deputy Director General (HAG) by the upgradation of his own post. As and when the HAG post is vacated it reverts to the same discipline to which the officer belonged. The administrative Ministry has suggested that HAG posts for Geology may be increased in the same ratio as SAG bears to JAG. It has also proposed that each operational group be headed by a Senior DDG, a HAG level officer, and a post each for the streams of Geo-physics, Mineral Physics, Drilling and Geo-chemistry, thus resulting in 8 HAG and 54 SAG posts and restricting the effect of the economy cut to 10% as an overall measure. We have considered the suggestions of the Ministry. We do agree that apart from the Headquarters, each region requires at least one SAG level officer in each of the streams of Geophysics and Geochemistry, and 3-4 SAG level officers in the Geology stream, to look after state-based and specialised activities like Engineering, Geology, Glaciology, Siesmotectonics and other natural hazards. With drilling activity now being concentrated mainly in the coal sector, and to a lesser extent in the metal/non-metal sector, three SAG level posts in the engineering stream would be sufficient to supervise these activities. We recommend that 12 posts at SAG level may be restored, raising the strength from 42 to 54. While restoring the posts at this level, the overall cut of 10% should apply uniformly across all the streams and levels. The 54 posts will thus be distributed across the different streams as follows:-

Geology	37	SAG
Geophysics (Exploration)		
Geophysics (Instrumentation)	7	
Mineral Physics		
Geochemistry	7	
Engineering (Drilling/Mechanical)	3	

**HAG posts** 76.11 The present administrative practice in a region is to appoint the seniormost SAG officer to discharge the administrative duties of Head of Department, overview the scientific and technical work, and also function as nodal officer for programme formulation in the region, while the other SAG officers look after implementation. Functionally, it is essential to have some difference between the Head of the Region and heads of units operating within the region for purposes of efficiency and clear identification of roles. We are also of the opinion that the regions should be headed by a HAG level officer, as more than one SAG level officer is posted in a region. While the GSI itself stresses that 12 posts would be absolutely essential, the Ministry has suggested 8 posts at HAG level, against the existing 3. Of the 54 posts we have suggested at the SAG level above, we recommend that a total of 9 posts may be placed at HAG level (Rs.7300-7600) on a floating basis and redesignated as Additional Directors General - 2 in the DG's office (Central Headquarters), 1 in each of the 6 Regional offices Head Quarters and 1 in Coal. The seniormost SAG level officer of any

(off Annexure 1) 120  
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scientific or technical stream, based on common seniority shall be placed in HAG, and on vacation, the post shall revert to the stream from where the promotion was made.

Administrative stream

76.12 The administrative stream headed by a Deputy Director General (Personnel) in the scale of Rs. 5900-6700, has no JTS officers in the pay-scale of Rs. 2200-4000, and Group B officers, totalling 115, are promoted directly to 13 STS posts in the pay-scale of Rs. 3000-4500. Introduction of a Junior Time Scale has been demanded to smoothen career progression, which is stated to be blocked not only by numbers but also by Direct Recruitment in Senior Time Scale. Besides, the Director (Personnel) (Rs. 3700-5000) is an ex-cadre post, filled by deputation, apart from a single post of Director (Administration), filled by promotion. Demands have been made to encadre the single ex-cadre post of Director (Personnel), as well as open the administration stream to the other scientific and technical streams. The Regional set up of the GSI is expected to exist even after re-organisation on the proposed lines. There are 6 regional offices and 7 posts of Regional Administrative Officers (RAO) (Rs. 3700-5000), 13 posts of Senior Administrative Officers (SAO) (Rs. 3000-4500), and 115 Administrative Officers (Rs. 2000-3500). We recommend that 28 posts of Administrative Officers may be upgraded, and one post each of RAO and SAO may be downgraded (after vacation by the present incumbents) to create a Junior Time Scale of Rs. 2200-4000 with 30 posts. The post of Director (Personnel) may be encadred and filled by promotion. The structure of the administrative stream will thus appear as in Annex 11.

Materials

Management stream

76.13 JTS posts have also been sought to be created in the Materials Management stream, which is headed by the Chief Controller of Stores (Rs. 4500-5700), filled entirely by promotion from among the stores cadre. In this stream too, Stores Officers in the scale of Rs. 2000-3500 are directly promoted to the posts of Deputy Controller of Stores in the scale of Rs. 3000-4500. Besides, after a series of deliberations between the GSI and the Ministry, the latter agreed for the creation of 59 posts in the first phase during the seventh plan to meet the additional workload. These posts have, however, not been created so far by the Ministry, with the result that the Materials Management Division is facing serious difficulties in day to day functioning. Keeping in mind the need for a JTS level, the difficulties in daily work and also in order to maintain comparable cadre ratio with the other streams in GSI, we recommend that the Ministry release the agreed 59 posts of the first phase, with the modified distribution as in Annex 76.3.

Other S&T Staff

76.14 The scientific and technical staff have also asked for upgradation at the levels of Technical Operators, Junior Technical Assistants, Senior Technical Assistants, etc. at the Group B and C levels. At the top of this hierarchy at Group B level are the Assistant Geologists/ Geophysicists/ Geochemists, etc. in the scale of Rs. 2000-3500, which are promotion posts for Senior Technical Assistants (STAs) (Rs. 1640-2900). The STAs in the scientific and technical streams, totalling 718, are recruited directly with a Master's degree in the respective fields. There are 169 STAs in the Drilling/Engineering stream who require at least a 3-year diploma in Mining Engineering. Since the minimum qualification of the bulk of the STAs for direct recruitment is a post-graduation, we recommend that these Senior Technical Assistants may be upgraded to Rs. 2000-3500 and redesignated as Assistant Geologists/Geophysicists/Geochemists, etc. Grade II. The existing Assistant Geologists/Geophysicists/Geochemists, etc. will be upgraded to the scale of Rs. 2500-4000, and redesignated as Assistant

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Geologists/Geophysicists/Geochemists, etc. Grade I. Junior Technical Assistants (JTAs) (Rs. 1400-2300) which are the feeder grade for the STAs, require minimum qualification of graduation in the respective fields for direct recruitment. They may be upgraded to the scale of Rs. 1600-2660, and filled 50% by promotion, and 50% by direct recruitment. Promotions may also prescribe possession of qualifications laid down for direct recruitment. Technical Operators in the scale of pay of Rs. 800-1150 have been classified as Group C. They are recruited directly from the open market to the extent of 50% with qualifications of Matric with science and a year's experience of scientific laboratory work. Between the level of JTAs and Technical Operators are Laboratory Assistants in the scale of Rs. 1200-2040, and in the case of Geochemistry, also in the scale of Rs. 1320-2040. We recommend that Technical Operators may be placed in the scale of Rs. 950-1500 at entry and redesignated as Laboratory Assistants III. Consequently, the existing posts of Laboratory Assistants may be placed 50% in the scale of Rs. 1320-2040 and redesignated as Laboratory Assistants II, and 50% with the designation of Laboratory Assistant I in the scale of Rs. 1400-2300.

*Non-secretariat  
office personnel*

76.15 Superintendents in GSI in the scale of Rs. 1600-2660 have also demanded upgradation to the level of Rs. 1640-2900 as is the case with many counterparts in other field organisations. In accordance with general proposals on non-secretariat office staff we recommend that Superintendents may be upgraded to Rs. 1640-2900 and Assistants to the scale of pay of Rs. 1600-2660.

*Field survey  
allowances*

76.16 Geological survey in the field is carried out by field parties who camp at the sites for the entire survey period, often exceeding 90 days. Members are paid a Field Establishment allowance (FEA) at the rate of Rs. 135 per month for maintaining a second establishment in the remote, uninhabited locations of survey work for considerable durations during a year, and also a Field Preparatory allowance (FPA) for purchase of essential items in preparation for the field season at the rate of Rs. 135 for the entire season. These allowances were fixed in May, 1980, and in the absence of any specific recommendations of the 4th CPC to that effect, were never revised. The administrative Ministry has suggested grant of the FEA at the rate of 10% of basic pay to officers proceeding for field work on tour for more than 15 days and at the rate of 5% for tours of less than 15 days, in addition to normal DA. There is justification in the demand as the rates are low compared to the present price indices. We recommend that the Field Establishment allowance may be enhanced to Rs. 300 per month to each field going staff provided each spell of field duty is not less than 90 days. This will be in addition to the payment of normal DA. As regards the FPA, essential materials required for camping should be provided by the GSI. Rs. 300 should be paid as FPA in addition, for the season.

*Medical facilities  
for field parties*

76.17 The field parties also face difficulties in the matter of medical facilities as neither CGHS nor State Government facilities are available at field locations. The administrative Ministry has suggested that members of such field operation parties should be free to consult the nearest available doctor and specialist on full reimbursement. Grant of medical allowance for outpatient treatment recommended elsewhere will partly meet such requirements. However, we also recommend that the Leaders of the field operation parties may be empowered for appointing Authorised Medical Attendants in the field areas.

Special flight allowance

76.18 The scientific officers of the Airborne Mineral Survey & Exploration (AMSE) wing have demanded special flight allowance, on the analogy of a similar allowance being drawn by their counterparts in the Atomic Minerals Division (AMD) of the Department of Atomic Energy. The AMD scientists are paid flying incentive @ Rs. 15 per hour subject to a maximum of Rs 50 per day and Rs. 400 per month, which is treated as taxable income. The GSI aircraft average about 100 hours of flying time in survey work spread over four months in a year. In view of the similarity of the duties performed and amount of risk involved, we recommend that GSI AMSE wing scientists may be paid special flight allowance at the following rates, which will also apply to the AMD personnel:-

CATEGORIES	RATE PER HR.	RATE PER DAY	MAX. PER MONTH
Auxiliary	Rs. 15	Rs. 45	Rs. 450
Supervisory & Support	Rs. 25	Rs. 75	Rs. 750
Executives	Rs. 35	Rs. 105	Rs. 1050

On-board allowance for Marine surveys

76.19 GSI has a sea going vessel 88 metres in size and two coastal launches of 35 metres, for carrying out the survey work on the high seas upto the end of the EEZ. Scientific officers work along with the crew, which is drawn from the Shipping Corporation of India (SCI). The scientific officers have demanded a special on-board allowance as is being paid to their SCI counterparts at the rate of 100% of their basic pay. Presently the scientific officers on marine survey are being paid 25% of normal DA on tour, in view of the free lodging facilities in the vessels. The administrative Ministry has already offered certain rates for such an allowance, based on basic pay and subject to the condition that no DA will be allowed to the officers. The offer has not found favour with the officers. In a similar situation, the scientific officers of the Fisheries Survey of India are already in receipt of a High Sea allowance at varying rates in addition to half the normal DA rates while on cruise at the high seas. We have made recommendations for rationalisation of similar sea allowances, admissible to other personnel, elsewhere in this report. In accordance with those recommendations, we recommend that scientific officers of the GSI may also be paid full Daily Allowance at normal rates applicable for tour, while on the high seas on marine survey work. If free food is provided on board, normal deductions will apply.

#### INDIAN BUREAU OF MINES

Objectives, Role & Activities

76.20 The Indian Bureau of Mines (IBM) is the national organisation engaged in promotion, conservation and scientific development of mineral resources of the country other than coal, petroleum and natural gas, atomic minerals and minor minerals. It is a subordinate office of the Ministry of Mines, enforcing the Mines and Minerals (Regulation and Development) Act, Mineral Concession, Conservation and Development Rules, and provisions of the Environment Protection Act. It is also engaged in scientific and techno-economic

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Annexure II

research studies in various aspects such as geology, mining, ore beneficiation and environment. In addition, the IBM also provides technical consultancy services to the mining industry for geological appraisal of mineral resources, mineral maps and countrywide inventory of mineral resources, acting as a data bank of mines and minerals.

Organisational  
setup and  
distribution of  
establishment

76.21

The organisation, with headquarters at Nagpur, is headed by a Controller General of Mines in the scale of pay of Rs.7300-7600, and has 3 zonal offices, 12 regional offices and 3 ore-dressing laboratories. With a total strength of 1915 personnel, organised into 6 functional Divisions, there are 337 officers in Group A and 286 in Group B. Besides, Group C & D comprise 812 and 490 staff, respectively. Other than the Mining Engineering stream, from where the Controller General, Chief Controller and Controller of Mines are drawn, the other functional streams comprise officers in the Mining Geology, Mineral Economics, Ore Dressing, Chemistry and Publication streams.

Demands in  
Memoranda

76.22

Officers in the different scientific streams have pointed out that the incumbents in the Mining Engineering stream skip the Senior Time Scale and go directly from the level of Assistant Controller of Mines (Rs.2200-4000) to the level of Deputy Controller of Mines (Rs.3700-5000), while all other streams pass through the STS, putting the latter to a disadvantage. The Superintending Chemist and Chief Editor have also sought upgradation as there are no further posts or promotion avenues in their respective streams. The scientific and technical Group B and C posts of mechanical and electrical streams of the Ore-dressing Division have been sought to be merged, along with removal of disparities between the scales of pay of Senior Technical Assistants of the GSI and IBM.

Mining  
Engineering  
Stream

76.23

As regards skipping of the STS level for mining Engineers, the administrative Ministry feels that it is essential so that this stream is able to attract and retain the right kind of scientific talent. An anomalies committee that went into the need to do away with the STS in the Mining Engineering stream, did not see any anomaly in this. We are of the opinion that skipping of the STS level to make the stream more attractive, is not justified. Moreover, there are only 27 posts at JTS feeding 37 posts at the next higher level of JAG. The fact that only mining engineers reach the top positions should be an attractive proposition careerwise. We recommend that 19 posts of the mining engineering stream may be placed at the Senior Time Scale level, leaving only 18 in the Junior Administrative Grade. This will also smoothen out career progression relative to other streams. Additionally, consequent on the rationalisation of the pay scale of Rs.4100-5300, the posts in this pay scale will be placed in the scale of Rs.4500-5700. We recommend that posts presently in the scale of Rs.4500-5700 may be upgraded to Rs.5100-6150.

Other Group A  
posts

76.24

The Superintending Chemist and the Chief Editor, in the scale of pay of Rs.3700-5000, are the highest posts in their respective streams. They have sought upgradation to bring parity in the pay scales of the heads of the different streams. All the other streams provide for promotional avenues at least upto the level of Rs.4100-5300. The rationalisation of this level to Rs.4500-5700 will further aggravate the difference. For the Chemistry stream, we recommend that the Superintending Chemist may be upgraded to the level of Rs.4500-5700 and redesignated as Chief Chemist. Consequently, one post of Senior Chemist out of the existing four may be upgraded to the level of Rs.3700-5000 and redesignated

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Annexure

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as Superintending Chemist. We do not recommend upgradation of the Chief Editor, as it is a very small cadre and we would not like to leave gaps in it.

STAs (Survey)

76.25 Senior Technical Assistants (Survey) in the Geological Survey of India and the Indian Bureau of Mines are supposed to have the same essential educational qualifications. While the former are placed in the scale of pay of Rs. 1640-2900, the latter are in the scale of Rs. 1600-2660. The nature of work and qualifications are comparable. We recommend that Senior Technical Assistants (Survey) in the Indian Bureau of Mines may be brought at par with their counterparts in the GSI.

Mechanical and Electrical streams

76.26 We have observed two differences in the hierarchy of the Mechanical and Electrical streams of the Ore-dressing Division as follows:-

MECHANICAL		ELECTRICAL	
DESIGNATION/ PAY SCALE	NO. OF POSTS	DESIGNATION/ PAY SCALE	NO. OF POSTS
Machineman (Rs. 800-1150)	8		
Mechanic (Rs. 900-1500)	10	Electrician (Rs. 950-1500)	1
		Electrical Supervisor (Rs. 1200-2040)	4
Mechanic Overseer (Rs. 1320-2040)	3		
Foreman Supervisor (Rs. 1400-2300)	1		
Pilot Plant Foreman (Rs. 1400-2600)	2		
Mechanical Foreman (Rs. 1640-2900)	1	Electrical Foreman (Rs. 1640-2900)	1

Firstly, the entry grade in the mechanical stream is lower than the electrical stream, and second, from the entry grade of Machineman to the top post of Mechanical Foreman the mechanical stream comprises four intervening scales against one in Electrical. It has been suggested that some posts in the mechanical stream may be merged so as to bring about parity in the two streams. A suggestion has also been made that the two streams themselves should be merged into a single one. We are not in favour of merger of the two streams or of posts in one stream with posts in the other stream as they are functionally different and present appropriate pyramidal hierarchies. We recommend that two posts of Electrical Supervisor out of four, may be placed in the grade of Rs. 1400-2300 and redesignated as Electrical Supervisor Grade I, and the remaining two posts remain in the scale of

11-12-58  
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Rs. 1320-2040 and be redesignated as Electrical Supervisor Grade II. The scale of pay of the two posts of Pilot Plant Foreman will by rationalisation be raised to Rs. 1600-2660.

### CONTROLLER OF MINING LEASES

*General* 76.27 The Office of the Controller of Mining Leases was set up in the year 1948 with headquarters at Nagpur to bring the mining leases of the country in conformity with the provisions of Mines and Minerals (Regulation and Development) Act and the rules made thereunder. The organisation, a subordinate office of the Ministry of Mines, has a total staff strength of 10, 1 in Group A, 7 in Group C and 2 in Group D. Only two of the 10 posts are filled. A Regional Controller of Mines of the Indian Bureau of Mines, has been appointed to function as Controller of Mining Leases in addition to his own duties.

*Merger with IBM* 76.28 The Indian Bureau of Mines and the Controller of Mining Leases are both responsible for the implementation of the Mines and Minerals (Regulation and Development) Act. While the former enforces the Act, the latter brings mining leases in conformity with its provisions. For a major part the functions of the two offices overlap. We recommend that the office of the Controller of Mining Leases be wound up, and its functions be performed by the IBM.

Answer next

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# Report of the Fifth

# Central Pay Commission

# VOLUME III

January 1997

BOOK AGENCY



*Annexure III*

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ANNEXE

PROPOSED SCALES OF PAY

SL. NO.	EXISTING STANDARD SCALES OF PAY (Rs.)	GRADES	REVISED STANDARD SCALES OF PAY (Rs.)	SPAN IN YEARS
1.	750-12-870-14-940	S-1	2440-40-3200	19
2.	775-12-871-14-1025	S-2	2550-45-3540	22
3.	800-15-1010-20-1150	S-3	2650-50-4000	27
4.	825-15-900-20-1200	S-4	2750-55-4400	30
5.	950-20-1150-25-1400 950-20-1150-25-1500 1150-25-1500	S-5	3050-70-4590	22
6.	975-25-1150-30-1540 975-25-1150-30-1660	S-6	3200-85-4900	20
7.	1200-30-1440-30-1800 1200-30-1560-40-2040 1320-30-1560-40-2040	S-7	4000-100-6000	20
8.	1350-30-1440-40-1800-50-2200 1400-40-1800-50-2300	S-8	4500-125-7000	20
9.	1400-40-1600-50-2300-60-2600 1600-50-2300-60-2660	S-9	5000-150-8000	20
10.	1640-60-2600-75-2900	S-10	5500-175-9000	20
11.	2000-60-2120	S-11	6500-200-6900	2
12.	2000-60-2300-75-3200 2000-60-2300-75-3200-100-3500	S-12	6500-200-10500	20
13.	2375-75-3200-100-3500 2375-75-3200-100-3500-125-3750	S-13	7000-225-11500	20
14.	2500-4000 (proposed new pre-revised scale)	S-14	7500-250-12000	18
15.	2200-75-2800-100-4000 2300-100-2800	S-15	8000-275-13500	20
16.	2630/- FIXED	S-16	9000/- fixed	
17.	2630-75-2780	S-17	9000-275-9550	2
18.	3150-100-3350	S-18	10325-325-10975	2

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Sl. No	EXISTING STANDARD SCALES OF PAY (Rs.)	GRADES	REVISED STANDARD SCALES OF PAY (Rs.)	SPAN IN YEARS
18.	3000-125-3625 3000-100-3500-125-4500 3000-100-3500-125-5000	S-19	10000-325-15200	16
19	3200-100-3700-125-4700	S-20	10650-325-15850	16
20.	3700-150-4450 3700-125-4700-150-5000	S-21	12000-375-16500	12
21.	3950-125-4700-150-5000	S-22	12750-375-16500	10
22.	3700-125-4950-150-5700	S-23	12000-375-18000	16
23.	4100-125-4850-150-5300 4500-150-5700	S-24	14300-400-18300	10
24.	4800-150-5700	S-25	15100-400-18300	8
25.	5100-150-5700 5100-150-6150 5100-150-5700-200-6300	S-26	16400-450-20000	8
26.	5100-150-6300-200-6700	S-27	16400-450-20900	10
27	4500-150-5700-200-7300	S-28	14300-450-22400	18
28.	5900-200-6700 5900-200-7300	S-29	18400-500-22400	08
29.	7300-100-7600	S-30	22400-525-24500	4
30	7300-200-7500-250-8000	S-31	22400-600-26000	6
31.	7600/- fixed 7600-100-8000	S-32	24050-650-26000	3
32.	8000 /- FIXED	S-33	26000/- FIXED	
33.	9000 /- FIXED	S-34	30000/- FIXED	

Note: It may be clarified that while discussing the various pay scales, the Commission came to the conclusion that there was need for another payscale between Rs 2000-3500/ 2375-3500/2375-3750 on the one hand and Rs 2200-4000 or Rs 3000-4500 on the other. As such, we coined a pre-revised payscale of Rs 2500-4000 as a Group B' payscale, to act as an intermediate stage. As we had already decided to use the revised payscale corresponding to Rs 2200-4000 to Rs 8000-13500 (instead of Rs 7000 etc. as it should have become if the broad multiplier of 3.25 were used), there was a gap of Rs 1000. It should be clearly understood that the pre-revised scale of Rs 2500-4000 (as it corresponds to a revised scale of Rs 7500-12000) is a lower scale than Rs 2200-4000 (as it corresponds to a revised scale of Rs 8500-13600).

3/1(971)/Lau-59/94

Annexure LXIV  
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Dated, the 28.4.95 29

To  
The Secretary to the Govt. of India,  
Ministry of Mines,  
Shaastri Bhavan,  
New Delhi.

Subject : Upgradation of pay scales of Technical Operator  
(Geology) in terms of Court orders.

Sir,

Shri Bhagabat Behara and Balaram Bal both Technical Operator (Geology) working in Operation (Orissa) (Bhubaneswar) filed O.A.No. 177/94 in CAT, Cuttack Bench seeking relief to allow to them the revised pay scale of Rs.975-1540/- with effect from 1.1.1986 as against their present scale of pay of Rs.800-1150/- given to them. The Tribunal Cuttack Bench in their order dated 11th August, 1994 directed the respondents to give the pay scale of Rs.975-1540/- to the applicants with effect from 1.1.1986 with the further directions to complete the entire process within one month from the date of their order. The department filed a review application against the judgement. The review application was dismissed unadmitted on 28.9.1994. On the advice of government counsel, Cuttack, a copy of which is enclosed for ready reference. An SLP application was filed in Supreme Court against the judgement of the Tribunal, Cuttack Bench. The SLP was heard and dismissed on 17.4.1995. Judgement in this regard is awaited.

In the meantime on 31.10.1994, applicants filed a contempt application for non-implementation of the judgement dated 11.8.1994. The contempt application is due to come up for hearing on 9.5.1995. The petition is named Dr. R.N.Mishra, BSC, Operation Bhubaneswar and Shri D.B.Dimri, DG, GSI. The Tribunal has served summons for personal appearance both DG, GSI and Dr. R.N.Mishra, DDC, Operation Bhubaneswar.

In view of the rejection of the SLP (which was filed within stipulated time), there appears to be no alternative except to implement the judgement dated 11.8.1994 of CAT, Cuttack Bench and allow the pay scale of Rs.975-1540/- to the applicant and also the consequential arrears. The total expenditure on account of this has been worked out to Rs.43,000/- in respect of each of the applicants totalling to Rs.86,000/-. Copies of the judgement, review application and intimation received from the Delhi office regarding rejection of the SLP by the Supreme Court are enclosed for ready reference.

In accordance with the Supreme Court judgement, direction given in respect of any applicant have to be uniformly applied in respect of others similarly placed. There are 99 posts of T.O.(Geol) sanctioned in the GSI. However, of these, 27 posts had been kept held in abeyance since long. Hence, a maximum of 72 T.O.(Geol) posts had been operated at different time since 1986. In case the judgement is to be implemented in respect of all the T.O.(Geol), the total financial implication will be : This may be decided in the Ministry in the light of the following circumstances. A similar case filed in CAT, Bangalore by Shri J.S.Ravindra(T.O.) against Union of India for grant of the group 'C' pay scale of Rs.975-1540/-; The CAT, Bangalore however dismissed the application. The GSI Employees Association filed a case in Calcutta on the same issue in O.A.No.142/91. This O.A. was referred to a full bench in view of the conflicting judgement of CAT, Calcutta and CAT, Bangalore. The full bench delivered the judgement on 3.1.1995, wherein it has been directed to place the claim of the applicant before the 5th Pay Commission within a period of 3 months. Action is on hand in this regard accordingly.

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- 1 2 -  
XIV

Earlier to the 4th Pay Commission, the following posts of Geology stream were merged and redesignated as T.O.(Geol) and placed in the scale of Rs.210-4-226-EB-4-250-EB-5-290/- . The pay scale of Rs.210 to 290 was given the equivalent scale of Rs.800-1150/-, which is a pay scale now being enjoyed by the T.O.(Geol) in GSI.

In view of the pending contempt hearing on 9.5.95 before, CAT, Cuttack, since the implementation of the order of 11.8.94 of CAT, Cuttack is involved, grant of pay scale other than that stipulated in the 4th Pay Commission, government sanction is required for the same. In view of the contempt petition, pending before CAT, Cuttack, which is to come up for hearing on 9.5.1995, government approval/sanction is requested for the following :

1. Grant of the higher pay scale of Rs.975-1540/- with effect from 1.1.86 and consequent payment of all arrears from that date in respect of applicants in respect of O.A.No.177/94 filed by Shri Bhagebat Bahara and Balaram Bal in accordance with the directions of CAT, Cuttack dated 11.8.94.
2. Approval/Sanction for grant of pay scale of Rs.975-1540/- in respect of T.O.(Geol) of GSI, if the same is directed, to be granted by the Ministry in the light of the circumstances indicated above.

Yours faithfully,

Sd/-  
( P. K. RANGANATHAN )  
Director (P)

- Copy-

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IMMEDIATE

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Annexure X

Government Of India  
Ministry Of Mines

No. 10/75/94-M.II(P)

New Delhi, dated 23rd May, 1995.

To

Shri D.B. Dimri  
Acting Director General,  
Geological Survey Of India,  
27, J.L. Nehru Road,  
Calcutta - 700 016.

Subject: Upgradation of pay scales of Technical Operator  
(Geology) in terms of Court orders

.....

Sir,

I am directed to refer to your letter No. 3/1(971)/Law-59/94, dated 28th April, 1995 on the above subject and to say that vide this Department's letter No. A-11019/2/78-M.II, dated 24.8.78 the post of Lab. operator -Group 'C' post in the scale of pay of Rs. 260-430 and Group 'D' posts of Lab. Attendant and Technical Attendant both in the scales of pay of Rs. 210-270 were merged and re-designated as Technical Operator (Chemical) in the scale of Pay Rs. 210-290. Since the merger affected the interest of one Technical Operator (Geology) of GSI, ER namely Shri R.K. Poddar on his exercising option under FR 23 he was allowed to retain the scale of pay of Rs. 260-430/- as personal to him. Consequent on the introduction of 4th Pay Commission recommended scales of pay in GSI, the post of Technical Operator (Chemical) in the pre-revised scale of Rs. 210-290/- was granted the revised scale of pay of Rs. 800-1150/- and Shri R.K. Poddar was also granted the same scale of pay of Rs. 800-1150/-. Subsequently when GSI realised that he was already getting the pre-revised scale of Rs. 260-430/- as personal to him. GSI issued a revised order indicating that Shri R.K. Poddar was granted the scale of Pay of Rs. 975-1540/- vide GSI, ER letter No. A-31016/7/Admn/ER/1/87, dated 21.8.90. However this letter did not clarify that the Scale of Rs. 975-1540/- granted to Shri Poddar was on personal basis and all other Technical Operator (Chemical) in GSI are entitled to the scale of Rs. 800-1150/-. Based on the above letter dated 21.8.90, Shri Bhagbat Behera and Balaram Lal, Technical Operator (Geology) of GSI, Bhubaneswar filed C.A. No. 177/94 in CAT Cuttack Bench praying that they may be granted the Scale of Rs. 975-1540/- w.e.f. 1.1.96 on the basis of the same scale granted to Shri R. K. Poddar, Technical Operator (Geology), CAT Cuttack in its order dated 11.8.90 in O.A. No. 177/94 directed that the applicants may be sanctioned the scale of Pay of Rs. 975-1540/- w.e.f. 1.1.96 within one month from the date of their order. Subsequently GSI filed a Review Application before CAT Cuttack which was dismissed on 27.9.94. Thereafter GSI filed SLP before the Supreme court on 16.1.95 which was heard by the Supreme Court on 17.4.95 and dismissed the SLP. In view of the dismissal of the SLP, it has now been decided to implement the orders of CAT Cuttack order dated 11.8.94 in respect of the two applicants. Accordingly in pursuance of CAT's order dt. 11.8.94 in O.A. 177/94 between Bhagbat Behera and Balaram Bal Vs. UOI approval of the Govt. Of India is hereby conveyed to GSI for revising the scale of pay of Rs. 800-15-1010-EB-20-1150 to Rs. 975-25-1150-EB-30-1540 to S/Shri Bhagbat Behera and Balaram Bal,

Technical Operator(Geology) in GSI, MH w.e.f. 1.1.96 as personal to them. The other Technical Operator(Geology) in GSI will continue to draw the scale of pay of Rs. 800-1100/- as already sanctioned.

2. The expenditure on this account will be met from the Budgetary grant of GSI for the year 1995-96.

3. This issue with the concurrence of Ministry of Finance, Department of Expenditure(Imp. Cell) vide their U.O No. C-72/13/95, dated 18.5.95 and I.P. Section of this Ministry vide their UO No. 3275/AS/PA/95, dated 18.5.95.

Yours faithfully,

Sd/-

(K. SASIKANTHAN)

Under Secretary to the Govt. Of India.

GOVERNMENT OF INDIA  
MINISTRY OF MINES

No. 10/15/94.M.II(P)

New Delhi, the 3rd July, 1995.

Shri D. B. Dindi,  
Acting Director General,  
Geological Survey of India,  
27, J. L. Nehru Road,  
Cuttack - 700 016.

Subject: Upgradation of pay scale of T.O. (Geol) in  
terms of court orders in OA No. 177/94 in  
CAT, Cuttack.

Sir,

In partial modification of this Ministry's letter  
of even number dated 23rd May, 1995 on the above subject  
I am directed to convey the approval of the Government of  
India for revising the scale of pay of the post of T.O. (Geol)  
from Rs. 800-15-1010-EB-20-1150 to Rs. 915-25-1150-EB-30-  
1540/- to S/Shri Bhagabat Behera and Balam Bal, Technical  
Operator (Geology) in GSI, ER with effect from 1.1.86 as  
personal to them instead of 1.1.96. The date of 1.1.96  
indicated in the earlier letter is a typographical error.  
The other contents of the aforesaid letter remains unchanged.

GEOLOGICAL SURVEY OF INDIA

100-10A

100-10B-10A

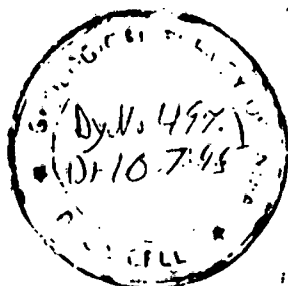
36M/10A.

12-7-95.

Yours faithfully,

K. Sankanthan  
(K. SANKANTHAN)

Under Secretary to the Govt. of India.



10/10/95  
(SKD)  
(LAL)  
SAL

10/10/95  
TOP SECRETARY  
9/11/95

Revised for  
char sec's  
as for their  
work

11/7/95

(1A)

ANNEXURE - XVII

XVII

XVII

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3/1(1063)/Law-59/96

19.01.1996.

P.K. Ranganathan  
Director (P)  
GSI, CHQ,  
Calcutta-16.

The DY. Director General,  
Geological Survey of India,  
Western Region,  
Jaipur.

Subject : Upgradation of Pay Scale of T.O.(Chem)-  
Implementation of judgement in O.A.  
No.494/95 filed by T.O.(Chem.) of W.R.  
in CAT, Jaipur.

.....

Sir,

76 I am directed to forward herewith the Speaking order issued in terms of directions of Hon'ble CAT, Jaipur in O.A. No. 494/95 dated 30.10.1995. You are requested to deliver the same to the concerned representationists. One copy may kindly be handed over to the Government Counsel in connection with the above judgement.

Yours faithfully,

sd/-

( P. K. RANGANATHAN )

Encl. As stated above.



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1305  
XVIII 148

Sub : Upgradation of Pay Scale of T.O.(Chem.)-  
Implementation of judgement in O.A.  
No.494/95 filed by T.O.(Chem) of W.R.  
in CAI, Jaipur.

16 official Tech. Chemical(Chem) and Tech. Operator(Geology)  
namely,

1. Birdhi Chand S/O Sri Chanda Lal, Tech. Op.(Chem).
2. Chaturbhuj S/O Sri Ram Nath, Tech. Op.(Chem).
3. Bakul Singh S/O Sri Banshi Singh, Tech. Opt(Chem),
4. Satya Narain Sharma S/O Sri Lakshmi Naran Sharma,  
Tech. Operator(Chemical).
5. Raghubir Singh, S/O Bajrang Singh, Tech. Op. (Chem).
6. K.N.V. Nayyar S/O Sri Narayan Nayyar, Tech. Op.(Chem).
7. Nhapwana Ram S/O Sri Dunga Ram, Tech. Op.(Chem).
8. Seva Lal S/O Sri Galap Chand, Tech. Op.(Chem).
9. Goverdhan Lal S/O Sri Lacha Ram, Tech. Op.(Chem).
10. Premchand S/O Sri Ganga Ram, Tech. Op. (Chem).
11. Govind Ram S/O Sri Ghasi Ram, Tech. Op. (Chem).
12. Nathu Lal S/O Sri Gopal Lal Mina, Tech. Op. (Geol).
13. Mohal Lal S/O Sri Prabhati Lal, Tech. Op. (Geol).
14. Ramswaroop S/O Sri Ramlal, Tech. Op. (Chem).
15. Manish Pandroy S/O Sri W.S. Pandroy, Tech. Op.(Chem).
16. Mohmd. Aijaz S/O Sri Mohmd. Siddique, Tech. Op. (Geol).

submitted a similar representations all dated 3.7.95  
to the Director General, GSI to consider upgradation of  
their pay scale in terms of the judgement order dated of  
the Hon'ble Central Administrative Tribunal, Cuttack Bench.

In the subsequent O.A. filed by the above representationists  
vide O.A. No.494/95 in CAI, Jaipur, the Hon'ble Tribunal Jaipur  
Bench in their judgement order dated 3.10.95 have passed the  
following order :-

" Respondents to decide the representation at Annex. A-6  
dated 3.7.95 keeping in view of the order of the Cuttack Bench  
of the Tribunal in O.A. No. 177/94 dated 11.8.94 at  
Annexure-A-4 within 3(three) months from the date of the  
receipt copy of the order"

(2)

In compliance to the above direction of the Hon'ble Tribunal, Jaipur bench, the representation dated 3.7.95 mentioned above have been considered in detail.

" In accordance with the direction of the Honble Tribunal Cuttack Bench " Respondents to give the pay scale of Rs. 975-1540 to the applicants w.e.f. 1.1.86 and entire precess be completed within one month from the date of this order." The above direction being specific to the applicants, in the first instance it cannot be applied to all the technical operators of GSI. This view has also been confirmed by the Ministry of Mines in their order No.10/75/94 M.II(P) dated 3.7.95. Moreover the same issue was also agitated before the Hon'ble Tribunal, Bangalore Bench by Sri T.S. Ravindra and Ors. in OA No.1153 to 1174/88. The OA has been dismissed by the Hon'ble Tribunal in their judgement order dated 17th March, '89 with the following directions.

" Viewed as a whole, we are satisfied that no injustice has been caused to the applicants, in assigning them the revised pay scale in the post of T/Os (i.e. Rs.800-1150/-). We, therefore, dismiss these applications as devoid of merit".

Apart from above in a similar case filed by GSIEA on behalf of the Tech. Operators, the larger bench CAT, Calcutta was pleased to dispose of the application (OA No.142/91) with the following observations/directions :

" In our opinion, OA 177/93 was not correctly decided by the Cuttack Bench of this Tribunal. It needs to be pointed out that the bench did not have the assistance of a reply on behalf of the respondents, nor the earlier judgement of the Bangalore Bench was brought to its notice. This Hon'ble CAT Cuttack Bench has also not examined the matter in detail as has been done by the Bangalore Bench.

The Division Bench had formulated two questions which have already been reproduced here in above for answer by the full bench. Since we are of the opinion that the matter should be examined by the Pay Commission, it is not necessary for us to answer the said questions. On the basis of the above discussions, the original application can be finally disposed off. In our opinion, no useful purpose willm therefore, be served by the first answering the questions and again directing the original applications to be listed before the division bench for its disposal. Accordingly, we are disposing of the original application finally.

In view of the above, the original application is disposed of finally by directing that the respondents shall refer the claim of the applicants to the 5th Pay Commission within a period of 3 months from the date of communication of this judgement under advice to the applicants."

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XVIII  
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It has to be kept in view that the present pay scale of Tech. Op. (Chem) is the merged pay scale of three grades prior to the 4th Pay Commission.

Chemical StreamGeology Stream

Lab. Op. (Chem) Rs.260-430/-	Museum Attendant-Rs.210-290/-
Lab. Attendant-Rs.210-290/-	Sec. Cutter- Rs.210-290/-
Tech. Attendant Rs.210-270/-	

*Rs.260-430/-  
were given  
the option to  
retain pay  
scale.*

The merged posts of T/O (Chem) and Tech. Op. (Geology) was fixed as Rs. 210-290/-. However those who were holding the post of Lab. Op. (Chem) in the pre-merged scale of Rs. 260-430/- on the implementation of the recommendations of 4th Central Pay Commission the pay scale of Rs.260-290/- was placed at the equivalent revised pay of Rs.800-1150/- and all the T/O (Chem)/T.O. (Geology) were granted these scales. However the Lab. Op. (Chem) who opted to retain the premerged scale of Rs.260-430/- obtaining prior to the 4th Pay Commission were consequently placed in the corresponding revised pay scale of Rs.975-1540/-. Hence the deptt. maintains the view that the pay scale of technical operators who were earlier not in the higher grade of Lab. Op. (Chem) in the pre-merged pay scale of Rs.260-430/- but were in the lower merged scale of Rs.210-270/- or only eligible to be granted to corresponding revised pay scale of Rs.800-1150/- as recommended by the 4th Pay Commission and not the higher revised pay of Rs.975-1540/- corresponding to the pre-revised scale of Rs.260-430/-.

Under the above circumstances, taking into account of the factors such as the pay structure that existed prior to the 4th Pay Commission and the merger of posts, the specific nature of the judgement of the Hon'ble AS CAT, Cuttack, the judgement of Hon'ble CAT, Bangalore and Cuttack the plea of the above officials in the grade of Tech. Op. (Chem)/T.O. (Geology) for grant of higher pay of Rs.975-1540/- is not acceptable and therefore the request made in the representation cannot be acceded to.

The Deptt. has however already submitted proposals recommending revision of pay scale of Tech. Op. (Chem)/Geology in tune with the claim of the applicants to the 5th Pay Commission in accordance with the directions of the Hon'ble CAT larger Bench, Calcutta in OA No. 177/93.

Yours faithfully

Sd/- P.K. Ranganathan  
Director (Personnel)  
for Dy. Director General (P)  
Geological Survey of India

To  
The representationists sl.no. 1 to 16 mentioned above.

Copy to : Dy. Director General, WR, GSI, for information.  
The above may be delivered to the addressee representationists and their acknowledgement forwarded to our records. Copy may also be sent to Govt. Counsel dealing with the CAT, case for his information.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

Original Application No. 507 of 1995  
Cuttack, this the 10<sup>th</sup> day of April, 1996

Asit Baran Jena & four others .... Applicants.

Vrs.

Union of India & another .... Respondents.

(FOR INSTRUCTIONS)

Whether it be referred to the Reporters or not? *no*

2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Sd/- N. SAHU  
(N. SAHU) 1d 4/96  
MEMBER (ADMINISTRATIVE)

P.T.O.


139  
152  
(116)  
(28)  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

Original Application No. 507 of 1995  
Cuttack, this the 10th day of April, 1996

CORAM:

HONOURABLE SHRI N. SABU, MEMBER ( ADMINISTRATIVE )

1. Asit Baran Jena,  
s/o late R. K. Jena,  
Technical Operator (Chem.),  
Office of the Dy. Director General,  
Geological Survey of India, Operation, Orissa,  
Nuapalli, Unit-8, P.O.-Phutaneswar, Dist. Khurda.



Gobinda Majhi,  
s/o Thakura Majhi,  
Technical Operator (Chem.),  
Office of the Dy. Director General,  
Geological Survey of India, Operation, Orissa,  
Nuapalli, Unit-8,  
P.O.-Phutaneswar,  
Dist. Khurda.

3. Kangali Bhanja,  
s/o Kanai Bhanja,  
Technical Operator (Chem.),  
Office of the Dy. Director General,  
Geological Survey of India, Operation, Orissa,  
Nuapalli, Unit-8, P.O.-Phutaneswar,  
District-Khurda.

4. Gundiche Rout,  
S/o late Gobinda Rout,  
Technical Operator (Chem.),  
Office of the Dy. Director General,  
Geological Survey of India, Operation,  
Orissa, Nuapalli, Unit-8, P.O.-Phutaneswar,  
District-Khurda.

5. Sarbeswar Gochayat,  
s/o late Manguli Gochayat,  
Technical Operator (Geology),  
Office of the Dy. Director General,  
Geological Survey of India, Operation,  
Orissa, Nuapalli, Unit-8, Phutaneswar, Dist. Khurda ... APPLICANTS.

By the Advocates

M/s G. A. R. Dora &  
V. Harasingha.

-2-  
-VERSUS-

*Annexure XIX*  
(10) 617 (127) 140 153

1. Union of India,  
through the Director General,  
Geological Survey of India,  
17, Jawaharlal Nehru Road,  
Calcutta-700 016.
2. Dy. Director General,  
Geological Survey of India,  
Operation, Orissa,  
Nuapalli, Unit-8, P.O.-Ehubaneswar,  
District-Khurda

.... RESPONDENTS.

By the Advocate

Shri Akhaya Misra,  
Addl. Central Government  
Standing Counsel.

O F D E R

N. SAHU,

JO, MEMBER (ADMINISTRATIVE)

These applicants have joined together and seek a direction to the Respondents, namely, the Geological Survey of India, to grant them the scale of pay of Rs.975-1540/- with effect from 1.1.1986. The facts leading to this claim are in a narrow compass. Group 'D' posts consisted of Section Cutter, Technical Attendant, Laboratory Attendant and Carpenter, Grade-III. Section Cutter and Carpenter, Grade-III were drawing a scale of pay of Rs.210-290/- and Technical Attendant and Laboratory Attendant were drawing a scale of pay of Rs.210-270/- in the unrevised scale. Other Group 'D' posts are Messenger, Cleaner and Safaiwala drawing a scale of pay of Rs.196-232/- in the unrevised scale. Section Cutter, Technical Attendant and Laboratory Attendant have been declared as Group 'C' (Technical) and redesignated as Technical Operators with

effect from 20.12.1980. Applicant No.1 joined as Laboratory Attendant in November, 1973. Applicant Nos.2 to 4 joined as Technical Attendants in November, 1973. Applicant No.5 was directly recruited as Technical Operator in June, 1984. After their posts were declared as Group 'C', applicant Nos.1 to 4 including one Sri Ranjit Kumar Podder who also along with them joined as Technical attendant, were confirmed as Technical Operators in Group 'C' with effect from 1.4.1983 as per the order dated 6.2.1990. Applicant No.5 was confirmed in April, 1987. Their grievance in brief is that instead of paying them Group 'C' revised scale of pay of Rs.975-1540/- with effect from 1.1.1986, they were paid Group 'D' revised scale of pay of Rs.800-1150/- with effect from the said date. Even if the status was elevated from Group 'D' to Group 'C', their scale of pay of Rs.210-290/- as per the recommendation of the Third Pay Commission had not been reviewed and with effect from 1.1.1986 they were granted the corresponding revised scale of pay of Rs.800-1150/-. Their brief claim is that as classified Group 'C' employees they were entitled to the unrevised scale of pay of Rs.260-430/- and the corresponding revised scale of pay was Rs.975-1540/-. The Ministry governing the Geological Survey of India had taken a decision rejecting the claim of the applicants.

2. As things stand, a judgment was delivered on 11.8.1994 by the Cuttack Bench of this Tribunal in

*Annexure XIX*  
*(719)* *(2/3)* *142/155*

O.A. No. 177 of 1994 (Ehagabat Behera and another v. Union of India and others). The Cuttack Bench in the said order granted the Technical Operators of the Geological Survey of India working within the jurisdiction of the above Bench the higher scale of pay of Rs.975-1540/-. When the Cuttack Bench delivered its order, it did not have the benefit of assistance of an earlier order of the Bangalore Bench of this Tribunal in O.A.Nos. 1153 to 1164 of 1983 (Shri T.S. Ravindra and others v. Union of India and others) delivered on 17th March, 1989. The Bangalore Bench of this Tribunal had decided the case of the Technical Operators of the Geological Survey of India. Before the Bangalore Bench also the point raised was granting of the revised scale of pay of Rs.975-1540/- with effect from 1.1.1986 corresponding to the pre-revised scale of pay of Rs.260-430/-. The Bangalore Bench dismissed the applications. The Division Bench of the Calcutta Bench of this Tribunal referred the matter to a Full Bench. In the Bangalore Bench order there was a reference to the decision of the Supreme Court in the case of State of Uttar Pradesh & others v. T.P. Chaurasia and others reported in AIR 1989 SC 19. The Apex Court held that in matters of equivalence of posts and pay scales, adjudication should best be left to the judgment of expert bodies, like the Pay Commission. The Bangalore Bench felt that no injustice had been caused to the applicants in those applications. Before the Full Bench, the point made out was that the Division Bench of the Cuttack Bench did



not have the assistance of the decision of the Bangalore Bench. It directed the Respondents to grant the Technical Operators the higher scale of pay. The Full Bench held that now that the Fifth Pay Commission has been constituted, it would be fit and proper that the case of the applicants before them for equivalence of scale of pay of Group 'C' employees be referred to the said Commission. The Full Bench held that O.A.No.177 of 1994 was not correctly decided by the Cuttack Bench of this Tribunal.

3. The learned counsel for the applicants, Shri G.A.R.Dora strenuously argued that there is no need for a Pay Commission to examine a very simple case of discrimination. He stated that the matter is concluded by the decision of the Cuttack Bench dated 11.8.1994. A Review Petition was dismissed on 27.9.1994. The Respondents filed S.L.P. on 16.1.1995 which was dismissed by the Apex Court on 17.4.1995. Shri Dora states that dismissal of the S.L.P. by the Apex Court is subsequent to the decision of the Full Bench. The order of the Cuttack Bench was eventually implemented after a contempt case was filed. The applicants are similarly situated persons working along with the applicants in O.A.No.177 of 1994 and yet the revised scale of pay of Rs.975-1540/- has been denied to them. The sum and substance of Shri Dora's argument is that as the Apex Court dismissed the S.L.P. subsequent to the Full Bench decision and the Respondents have implemented the judgment and as the applicants are similarly situated persons with the applicants in O.A.No.177 of 1994, it is a simple case of implementation and extension of the Tribunal's order to the applicants.

*Annexure XIX*

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Shri Dora's second argument is that the scale of pay of the lowest Group 'C' post was revised to Rs.975-1540/- with effect from 1.1.1986. The fact of upgradation of Section Cutter, Technical Attendant and Laboratory Attendant to Group 'C' was not placed before the Fourth Pay Commission and consequently, it was under the impression that the said posts continued under Group 'D' service. After upgradation to Group 'C' with effect from 20.12.1980, the designation of Section Cutter became Technical Operator, Geology and the designation of Technical Attendant and Laboratory Attendant became Technical Operator (Chemical). The thrust of Shri Dora's argument is that there is no need for any expert body to adjudicate upon. It is a case of application of a particular scale of pay to similarly situated persons in a particular Group. The principle of equal pay for equal work is absolutely to be applied in a case of this type. The important point raised by Shri Dora is that in the S.L.P. filed before the Supreme Court, the difference of opinion between the Cuttack Bench and the Bangalore Bench has been focussed. Normally the Supreme Court when such difference arises between the two co-ordinate Benches, would have permitted the S.L.P., but still the Supreme Court dismissed the S.L.P. This shows that though the Supreme Court was aware of the difference of opinion between the two co-ordinate Benches and the specific point of law as to whether the Tribunal is competent to go beyond the recommendation of the Pay Commission, yet the Supreme Court thought it fit to dismiss the S.L.P. Shri Dora urged that the later dismissal

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of the S.L.P. seals the case with finality and upholds the decision of the Cuttack Bench and that impliedly the decision of the Bangalore Bench is overruled and along with it, the decision of the Full Bench. The next point of Shri Dora is that one of the employees, namely, Shri Ranjit Kumar Podder similarly situated doing the same work as that of the applicants and recruited along with them, is drawing a higher scale of pay and the applicants have been deprived of the same benefits for doing the same type of work. This, according to Shri Dora, is a classic case of discrimination.

4. Learned counsel for the Respondents, Shri Akhaya Misra stated that the Full Bench decision explicitly overruled the Cuttack Bench decision and held that the Cuttack Bench case was erroneously decided, thereby upholding the Bangalore Bench decision. The Full Bench decision referred the case of the applicants before them to the Fifth Pay Commission. The Fifth Pay Commission is seized of the matter pertaining to the claim of the applicants. The Fifth Pay Commission is an expert body and when it is seized of the matter pertaining to equivalence of posts and pay scales and as the Full Bench refrained from deciding the case, it will be inappropriate for a Single Bench at Cuttack to decide the case in favour of the applicants following the Division Bench decision of the Cuttack Bench.

With regard to the claim of Shri Dora that dismissal of S.L.P. upholds the Cuttack Bench decision, Shri Akhaya Misra

Annexure 25



(23)

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submitted that this is not correct. He cited the decision of the Supreme Court in the case of Supreme Court Employees' Welfare Association v. Union of India reported in AIR 1990 SC 334. A mere dismissal of the S.L.P. without more does not amount to an affirmation of the principles laid down in the case. The Supreme Court only thinks that this is not a fit case for the Apex Court to adjudicate upon. Thus, as between the parties, the Cuttack Bench decision is upheld. It does not mean that the principles of law laid down have been approved under Article 141 of the Constitution of India as binding principles to be followed by all other Benches. To the similar effect is the decision of the Principal Bench in the case of Suresh Chand Gautam v. Union of India reported in (1992) 19 ATC 664 (FB). According to Shri Mishra, the Full Bench decision overruling the Cuttack Bench decision holds the field as a statement of law which is binding on all other subordinate benches of the Tribunal.

5. An analogy has been drawn from the case of Sri Ranjit Kumar Poddar by Shri Dora. Shri Poddar was working as a Technical Operator whose unrevised scale of pay was Rs.210-290/- and was given the scale of pay of Rs.975-1540/- though it is stated that he was given such pay scale after re-designation as Technical Operator. The point that is highlighted in the S.L.P. as well as in the counter-affidavit by the Respondents is that the said Sri Ranjit Kumar Poddar was drawing a much higher pay scale when his pay scale was merged by the Third Pay Commission. The last pay drawn by Shri Poddar should be protected by the employer

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in view of the judgment of the Supreme Court in the case of Narender Kumar Chandle v. State of Haryana reported in (1994) 4 S.C. 460. Accordingly, the said Shri Poddar was given the pay scale of Rs.260-430/- because he was getting more salary than his revised pay scale and thus his last pay drawn was protected. This, therefore, is a peculiar case of protection of personal pay and Shri Poddar's case cannot be dangled as an illustration for following up in other cases.

6. I have carefully considered the submissions of the rival counsel. I am of the view that the decision of the Full Bench of this Tribunal is binding on me. The Full Bench has expressly declared that the Cuttack Bench case was wrongly decided. It upheld the Bangalore Bench decision. The dismissal of S.L.P. in the Cuttack Bench case does not mean reversal of the Full Bench decision. It only means that in the applicants' case in the Cuttack Bench decision in personem the Supreme Court did not want to take up the matter for adjudication. That is what the dismissal of the S.L.P. means. It is not a decision on merits. It was not a decision on facts. Refusal to take up the matter on Special Leave is not an automatic endorsement of what all the Bench decision has said. The Cuttack Bench decision in the peculiar facts of that case, which attained finality, is not to be followed in rem with regard to other persons or other cases. This does not amount to laying down the law under Article 141 of the Constitution of India. It is not followed universally throughout India. With this proposition

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advanced by Shri Akhaya Misra, I entirely subscribe and agree. That apart, what all the Full Bench stated is that the matter should be referred to the Fifth Pay Commission which is an expert body and is competently equipped and empowered to decide matters of equivalence of posts and pay. The Pay Commission is constituted precisely to resolve anomaly of this type. When the Full Bench had referred the matter of alleged ambivalence or discriminatory pay scale, it is appropriate to await such a finding of the Pay Commission. The findings of the Pay Commission are not far off. Once the Pay Commission decides the matter in favour of the applicants, they can easily claim for drawing the same pay. Thus when, as decided by the Full Bench, the matter is pending before the Fifth Pay Commission, it would be inappropriate for me, sitting as a Single Bench, to follow a Division Bench decision which stands expressly overruled. In view of this, I have no other alternative except to dismiss the application with direction that the applicants should await the findings of the Fifth Pay Commission on their long pending grievance. No order as to costs.

sd/- N. SAHU

(N. SAHU)

18/4/76  
MEMBER (ADMINISTRATIVE)

TRUE COPY

A. Nayak, P.S.

Section Officer,

Central Administrative Tribunal,

Cuttack Bench, Cuttack.