

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 4422/2011
With
OA 280/2012

Reserved on: 9.11.2016
Pronounced on: 16.11.2016

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)**

OA 4422/2011

1. Shri Naresh Kumar (Emp. No.6961618)
S/o Shri Din Dayal
R/o P-83/4, Basant Range Colony,
Army Camp, Delhi Cantt.-10
2. Shri Om Prakash (Emp. No.6961783)
S/o late Shri Daya Chand
R/o X/3104, Street No.4
Raghulal Pura-II, Delhi-31

(Through Shri B.K. Berera, Advocate)

Versus

1. Union of India
Through Secretary
Ministry of Defence
South Block,
New Delhi-110001
2. Director General of Ordnance Services (OS-8C (II))
Master General of Ordnance Branch
Integrated HQ of MOD (Army), Sena Bhawan,
New Delhi-110011
3. The Chief Record Officer
AOC Records,
Pin-900453
C/o 56 APO
4. The Commandant
Central Ordnance Depot
Delhi Cantt.-110010

.....Respondents

(Through Shri Rajesh Katyal, Advocate)

OA 280/2012

1. Smt. Vimlesh Pushkarna
W/o Shri S.K. Pushkarna
3529B, Raja Park,
Delhi-110034
2. Smt. Gurdeep Kaur
W/o Shri R.P. Singh
19/10, Tilak Nagar,
Delhi
3. Smt. Saroj Dhall
W/o Shri Sunil Dhall
WZ-43A, Rattan Park
New Delhi-110015
4. Shri Parti Pal Singh
S/o Shri G.S. Premi
E-5C, Sudershan Park,
Moti Nagar, New Delhi-110015
5. Smt. Neelam Dewan
W/o Shri A.K. Dewan
AD-29B, Power Apartments
Pitampura, New Delhi-110088

....Applicants

(Through Shri Sushil Sharma, Advocate)

Versus

1. Union of India
Through the Secretary
Ministry of Defence
South Block,
New Delhi
2. Director General of Ordnance Services (OS-20)
MGO's Branch
Sena Bhawan
Army Headquarters, DHQ PO
New Delhi-110011
3. The Commandant
Central Ordnance Depot
Delhi Cantt-110010
4. CSO (A)
Personal Officer (Civ)
Establishment (NI) Branch
Central Ordnance Depot
Delhi Cantt-110010

....Respondents

(Through Shri Rajesh Katyal, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The issue involved in OA 4422/2011 and OA 280/2012 being the same, they were heard together and are being disposed of by this common order.

2. The applicants joined as Data Entry Operator (DEO) in December 1979. On the basis of recommendations of a Committee set up by the government (Dr. N. Sheshadari Committee), a revised pay structure for EDP posts was introduced in September 1989. However, this order of the Ministry of Defence was replaced with another letter of even number dated 6.12.1994, according to which the revised pay scale was incumbent upon possession of certain revised qualifications and experience. The applicants filed OA 353/2009 for grant of pay scale of Rs. 1350-2200 as granted to similarly situated employees with effect from 1.01.1986. The Tribunal vide order dated 6.04.2009 disposed of the said OA with direction to the respondents to dispose of the claim of the applicants by passing a speaking and reasoned order.

3. The respondents issued corrigendum 28.07.2011 and 9.08.2011 and in the Corrigendum dated 9.08.2011, the date of grant of benefit to the applicants was changed with effect from 26.12.1991 and 29.12.1991 and pay scale of Rs.1350-2200 was granted to Shri Naresh Kumar, Shri Om Prakash Arora and Smt.

Rajni Kala with effect from 1.01.1986 but there was no change in the date of implementation of scale in respect of the applicants. The respondents issued the impugned order dated 30.09.2011 whereby they have refixed the pay of Shri Naresh Kumar and Shri Om Prakash, the applicants in OA 4422/2011 with effect from 26.12.1991 and 29.12.1991 and the effective date for the applicants in OA 280/2012 i.e. Smt. Vimlesh Pushkarna, Shri Gurdeep Kaur, Smt. Saroj Dhall, Shri Parti Pal Singh and Smt. Neelam Dhawan has been fixed as 10.06.1986, 10.08.1995, 15.07.1987, 23.03.2002 and 12.03.1986 respectively. This order is under challenge and the reliefs sought are as follows:

- a) Quash and set aside the impugned order dated 30 Sep. 2011
- b) Declare that the action of the respondents in re-fixing the pay which has been fixed in compliance of the Tribunal order is illegal and unsustainable in the eyes of law.

4. The applicants in OA 280/2012 had also approached the Tribunal in OA 3072/2004, which was disposed of vide order dated 15.02.2007 as follows:

“7. In the result for the foregoing reasons OA is partly allowed. The impugned order passed by the respondents insofar as it denies the grant of pay scale under 4th CPC recommendations to the applicants w.e.f. 1.1.1986 is set aside. Respondents are directed to accord to the applicants the pay scale w.e.f. 1.1.1986 with all arrears and allowances thereof as done in Pareek case within two months from the date of receipt of copy of this order.”

In fact, in **Rajinder Kumar Pareek and others Vs. Union of India and others**, OA 1218/2002 decided on 14.02.2003, the Tribunal ruled that since the Ministry of Finance vide their letter dated 3.05.1995 revised the scale of pay of those DEO Grade 'A', who were graduate, on the basis of Sheshagiri Committee's report and the decision dated 10.02.2000 in OA 351/1999 granting EDP scale w.e.f. 1.01.1986, the applicants in Pareek case were entitled to be accorded the benefit and accordingly allowed the OA directing the respondents to accord revised scale of Rs.1350-2200 with effect from 1.01.1986, with all consequential benefits. In compliance of the order dated 15.02.2007 in OA 3072/2004, the applicants were granted the pay scale of Rs.1350-2200 with effect from 1.01.1986.

5. It is the contention of the learned counsel for the applicants that in OA 3072/2004 (supra), the Tribunal had directed to accord the applicants therein the pay scale with effect from 1.01.1986 with all arrears and allowances thereof as done in Pareek case. The applicants have not mentioned about arrears and consequential benefits in the order granting them pay scale from 1.01.1986. The department had issued order dated 29.12.2009 in implementation of Tribunal's order dated 15.04.2009 in OA 353/2009, **Naresh Kumar and others Vs. Union of India** and granted them pay scale of Rs.1350-2200 with effect from 1.01.1986 and consequential benefits of 1st ACP in the pay scale of Rs.5000-8000 and 2nd ACP in the pay scale of Rs.5500-9000. However, all this has been annulled by the

respondents by refixing their pay in accordance with the impugned order dated 30.09.2011. Being aggrieved by this action of the respondents, the applicants have filed the instant OAs.

6. The applicants have also placed before us copy of order of the Tribunal in OA 2587/2005, **Smt. Shama Kaul and others Vs. Union of India and others**, decided on 19.05.2006. This was also filed on the same issue and it was argued in that OA that requirement of possessing qualifications mentioned in the order dated 6.12.1994 can be insisted upon only for the new entrants i.e. it could only have prospective effect as per recognized principles of service jurisprudence. The OA was allowed with direction to the respondents to refix the pay of the applicants therein in the revised pay scales with effect from 1.01.1986 or with effect from the date of their appointment, whichever is later and also accordingly refix their pension and pay them the difference of arrears with consequential benefits.

7. Learned counsel for the applicants further placed before us copy of order of the Full Bench of the Tribunal in OA 365/2007 with OA 2535/2006. Here again, the issue related to grant of pay scales of Data Entry Operator as a result of Sheshagiri Committee recommendations and the OA was allowed and the respondents directed to grant the benefit of refixation of pay with all consequential benefits with effect from 1.01.1986 to the applicants.

8. The earlier order dated 24.01.2013 in OA 4422/2011 and OA 280/2012 was also relied upon by the learned counsel for the applicants. These OAs had been filed by the same applicants. Both the OAs were allowed and the respondents directed to restore the pay scale of the applicants and refund any money that might have been recovered. The matter went upto the Hon'ble High in W.P. (C) 3434/2013 and the Hon'ble High Court directed as follows:

"4. We highlight that the petitioners were not denying implementation of the recommendations of the Sheshagiri Committee with effect from January 01, 1986 but were taking a stand that while implementing the same the requirement of length of service was integral, meaning thereby if a graduate had worked for 6 years the applicable grade would be paid with effect from January 01, 1986 and if not from the date the graduate had worked for 6 years and as regards under graduates the period being 12 years.

5. At the remanded stage the Tribunal would deal with this aspect of the matter which has escaped the attention of the Tribunal."

This is how the matter is before us.

9. The case of the respondents is that the Ministry of Defence had issued order dated 6.12.1994 regarding revision of pay scales of EDP posts as per provisions contained in Annexure I in which for DEO Grade B (Rs.1350-2200) (revised category), the revised provisions were as follows:

"(a) Graduates with 6 years or more as on 11.05.1989 will be placed in the scale of Rs.1350-2000 (Data Entry Operator Grade-B w.e.f. that date).

(b) Non Graduates with 12 years service or more as on 11.09.1989 will be placed in the scale of Rs.1350-2200 (Data Entry Operator Grade-B w.e.f. a Screening Committee to be constituted for the purpose, on the basis of seniority subject to the elimination of the unfit."

10. It is, therefore, contended that only on completion of six years for graduates and twelve years for non-graduates, the pay scale of Rs.1350-2200 would be given with effect from that date. Learned counsel for the respondents explained that order dated 30.09.2011 has, therefore, accordingly been issued refixing the effective date from which the applicants, depending on whether they completed six years, in case they are graduates and twelve years, if non-graduates, would be drawing the minimum of Rs.1350/- in the scale.

11. Learned counsel for the applicants argued that order dated 6.12.1994 can only have prospective effect and, therefore, will not be applicable on the applicants as 6/12 years condition has been added only vide the order date 6.12.1994. It is further argued that order dated 6.12.1994 itself states that "Graduates with 6 years or more as on 11.05.1989" and "Non Graduates with 12 years service or more as on 11.09.1989". It is stated that the cut-off date for counting 6 years/ 12 years was 11.05.1989 and 11.09.1989 respectively and the two applicants in OA 4422/2011 admittedly qualify because applicant no.1, Shri Naresh Kumar was B.Com. before 1.01.1986 and applicant no.2, Shri Om Prakash had passed B.Com. in 1988. Similarly, it is argued that in OA 280/2012, applicant no.1, Smt. Vimlesh Pushkarna, who was appointed in June 1980, had the

educational qualification of M.A. and, therefore, she had six years experience on the cut-off date. Applicant no.2, Smt. Gurdeep Kaur was appointed on 10.08.1983 and she had the educational qualification of HSc. Therefore, she had not completed twelve years as on 11.09.1989 and was thus granted financial upgradation only after completion of twelve years service i.e. with effect from 10.08.1995. Applicant no.3, Smt. Saroj Dhall was appointed on 15.07.1981. She was B.A. at the time of appointment and her financial benefits have been granted on completion of six years service i.e. with effect from 15.07.1987. Shri Parti Pal Singh was appointed on 23.03.1990. He was matriculate at the time of appointment. Therefore, he was granted financial benefits after completion of twelve years service i.e. with effect from 23.03.2003. Smt. Neelam Deewan was appointed on 12.03.1980. At the time of her appointment, she was B.A. and, therefore, she was granted financial benefits on completion of six years service i.e. with effect from 12.03.1986.

12. We have heard the learned counsel for the parties and gone through the pleadings available on record.

13. The matter has been remanded to this Tribunal on the question of applicability of 6 years/ 12 years service by graduates and non-graduates respectively for the benefit of new pay scales. Obviously, the revised pay scales granted to EDP staff was subject to the stipulation as contained in Annexure I of OM dated 6.12.1994. Thus, it is not a question of retrospective

applicability of government instructions. The revision of pay scales, as is clear from the order itself, was with certain terms and conditions as mentioned in the order and as mentioned in the annexures. Therefore, we find no mistake in the impugned order dated 30.09.2011 by which the respondents have granted the effective dates as those dates from which the applicants fulfilled the conditions of six years/ twelve years of service as on the cut-off date namely 11.05.1989 and 11.09.1989. Since the OAs have been referred back to this Tribunal by the order of the Hon'ble High Court in W.P. (C) 3434/2013 (supra) on the limited point, we have examined the issue afresh on the specific point of six years/ twelve years service.

14. In view of above, the OAs are found to be devoid of merit. These are, therefore, dismissed. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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