

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

OA 756/2014
MA 658/2014

Reserved on: 28.03.2017
Pronounced on: 3.04.2017

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

1. Shri Durga Lal Arora (MES No. 169004)
S/o Shri Tulsi Ram Arora,
Aged about 59 years
R/o House No. 125/3, Bhama Shah Lines
Ekling Garh Cantt.
Sector B, Udaipur (Rajasthan)
2. Shri Ram Lal Khandelwal (MES No.191287)
S/o Shri Chunni Lal,
Aged about 63 years
R/o C/o D.L. Arora
H.No. 125/3, Bhama Shah Lines
Ekling Garh Cantt.
Sector B, Udaipur (Rajasthan) ... Applicants

(Through Shri T.D. Yadav, Advocate)

Versus

1. Union of India through
Secretary, Ministry of Defence
South Block, New Delhi
2. Engineer-in-Chief Branch
(EIC-3, Kashmir House
DHQ PO, Rajaji Marg
New Delhi
3. Commander Works
Engineer (Army)
Multan Line, Army Area
Jodhpur – 342010
4. Asst. Garrison Engineer (I)
Ekling Garh Cantt.
Udaipur (Rajasthan)-313001

5. Garrison Engineer
(ADGES), Mount Abu
RajasthanRespondents

(Through Shri R.N. Singh, Advocate)

ORDER

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

The applicants were appointed as Caneweaver on 29.05.1980 (applicant No.1) and 2.07.1979 (applicant no.2). Applicant no.2 retired on 31.10.2012. The applicants are blind persons.

2. Upon the recommendations of the 4th CPC and based on order of this Tribunal dated 15.09.2000 in OA 804/1998, the applicants were granted skilled grade pay scale of Rs.950-1500. The respondents approached the Hon'ble High Court against the order of the Tribunal in the aforesaid OA in Civil Writ Petition No.1054/2000, which was dismissed vide order dated 15.07.2002. It is stated that this judgment was challenged in an SLP, which was dismissed on 27.06.2004.

3. According to the applicants, thereafter number of similar orders were passed by this Tribunal. The following have been cited:

- (i) OA 1118/2009, **Prithipal Singh and ors.** Vs. UOI decided on 2.02.2010.
- (ii) OA 3998/2010, **Abrar Husain Vs. UOI and ors.** decided on 11.10.2011

- (iii) OA 1018/2003, **Man Singh Vs. UOI**
- (iv) OA 1697/2003, **Raj Kishore Vs. UOI and ors.**
- (v) OA 1832/2007, **Bansi Lal Vs. UOI and ors.**
- (vi) OA 2304/2004, **Mohd. Suleman Vs. UOI and ors.**

4. It is further claimed that the respondents have implemented from the date of initial appointment the skilled pay scale with all consequential benefits vide order dated 9.12.2004 in OA 2697/2003 as also in OA 1018/2003 and OA 1832/2007. The applicants thereafter filed OA 4370/2012, which was disposed of vide order dated 21.12.2012 with the following directions:

"In the above facts and circumstances of the case, we are inclined to dispose of this OA at the admission stage itself. We, therefore, direct the respondents to consider the case of the applicants herein in the light of the aforesaid orders of this Tribunal and also the orders passed by them implementing the directions contained in those orders. If the applicants are also found to be covered by the aforesaid Judgments, the applicants are shall also be given the same benefits as in the case of the applicants in the aforesaid OAs with all consequential benefits. Necessary orders, in this regard, be passed by the respondents and financial benefits shall be given to the applicants within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs."

5. The applicants thereafter filed Contempt Petition no. 551/2013 but this was closed vide order dated 30.01.2014 in view of the impugned order dated 18.12.2013. Vide this order

dated 18.12.2013, the applicants have been granted the skilled grade pay of Rs.950-1500 (Rs.3050-4590 revised) but the refixation of pay was directed to be notional and the actual arrears restricted to 18 months prior to the date of filing of the case. The applicants are aggrieved by this order and have filed this OA seeking the following reliefs:

- "(i) To set aside and quash the impugned order dt.18.12.2013 (Annexure A) to the extent that the refixation of pay will be notional and the actual arrears will be restricted from 18 months prior to the date of filing of the case.
- (ii) To direct the respondents to fully grant the same benefits to applicants as respondents have already granted vide order dt.11.10.2011 in O.A.No. 3998/2010 (Akbar Husain vs. UOI & Ors), order dt. 28.4.2009 in OA No. 1118/2009; (Prithi Pal Singh & Ors), and order dt. 17.3.2008 in O.A.No. 1832/07 (Bansi Lal vs. UOI) and grant skilled grade of Rs.950-1500 from the date of initial appointment with all the consequential benefits like actual arrears and other benefits to the applicants.
- (iii) To pass any other order/s as may be deemed fit and proper in the facts and circumstances of the case.
- (iv) Award cost."

6. The learned counsel for the applicants stated that the respondents cannot deny extension of benefit of the orders implemented in OA 3998/2010, OA 1018/2003, OA 1697/2003, OA 2304/2004 and OA 1832/2007, in all of which the applicants in those cases were granted skilled grade of Rs.950-1500 from

the date of initial appointment with all consequential benefits from time to time as per rules.

7. Identical OA no.401/HR/2005 was allowed by the Chandigarh Bench of the Tribunal and the said order was implemented vide impugned order dated 7.03.2007 and granted skilled grade of pay scale from the date of filing of the OA. Subsequently, one Bansi Lal challenged the same order dated 7.03.2007 by way of second OA no.1832/2007 before this Tribunal, which was disposed of vide order dated 17.03.2008 with the observation that the applicant therein would be entitled to the pay scale of the skilled grade from the date of initial appointment.

8. The learned counsel for the applicants has also placed reliance on the judgment of the Hon'ble Supreme Court of India in SLP (C) No.14005/1992 where the Hon'ble Court directed as follows:

"In view of the decision of the Tribunal in T.A. No.319/85, it is appropriate that the Union of India treat all such persons alike and to grant them the same benefit instead of driving each one of them to litigation in the course of which the Union of India itself is required to spent considerable public money. This aspect appears to have been overlooked also by the Tribunal.

It is appropriate that the Tribunal is required to grant relief to the appellant-Girdhari Lal computing the benefits due to him in accordance with the decision of the Tribunal in T.A. No.319/85 for which purpose the matter is to be remitted to the Tribunal. Accordingly, the appeal is allowed. The impugned judgment is set aside. The Tribunal would now proceed to decide the case of the appellant afresh in accordance with the above direction."

9. Reliance on behalf of the applicants was also placed on **K.C. Sharma and others Vs. Union of India and others**, (1997) 6 SCC 721, stating that the claim of benefits to others similarly situated should be considered without invoking the issue of limitation. The applicants further relied on the order of this Tribunal dated 3.12.2012 in OA 4241/2011. We, however, do not find this to be relevant at all.

10. The respondents in their reply have taken the stand that in an earlier decision by the Hon'ble High Court of J&K dated 18.10.2012 in SWP No. 1698/2012, it was directed as follows:

“6. As a sequel to the above discussion, this petition is disposed of with the direction that the original applicant – respondents would be entitled to the benefit of the pay scale of the Skilled Caneman notionally but the arrears would be confined to the period of 18 months preceding the date of filing of the original application which is 25.11.2010.”

The issue before the Hon'ble High Court of J&K was whether the applicants were entitled to the benefit of order dated 15.09.2000 passed by the Principal Bench of the Tribunal in OA 804/1998. The Hon'ble High Court had also taken note of the judgment of the Tribunal in OA 2585/2009, **Arjun Dev and others Vs. Union of India etc.** and thereafter directed that arrears would be confined to the period of 18 months preceding the date of filing of the OA.

11. Learned counsel for the respondents also referred to order dated 29.04.2013 of the Jodhpur Bench of the Tribunal in the

case of grant of skilled grade/ pay scale to Valve man category in which order, the arrears on account of fixation were held payable only for a period of three years prior to the filing of the OA. It is their case that where no period regarding arrears of pay and allowances is mentioned, the orders are implemented considering 18 months arrears prior to the date of filing of the OA as laid down by the Hon'ble High Court of J&K vide order dated 18.10.2012.

12. We have heard the learned counsel for the parties, gone through the pleadings available on record and perused the judgments/ orders cited.

13. It is clear that the Hon'ble High Court of J&K has restricted the arrears to 18 months preceding the date of filing of the OA. It is indeed a fact that there are certain orders of the Tribunal where orders have been implemented from the date of initial appointment whereas in the case of the applicants, refixation of pay was directed to be notional and the actual arrears restricted to 18 months prior to filing of the OA.

14. The period of arrear payment has differed from case to case. No ratio has been laid down by the Courts in this regard. The benefit has been restricted to a period of 18 months by the Hon'ble High Court of J&K and the respondents have followed that. The decision of the respondents cannot be said to be

arbitrary, illegal or discriminatory. The OA is, therefore, dismissed. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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