

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1537/2011

Order reserved on: 24.10.2016.

Order pronounced on: 15.02.2017

Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K. N. Shrivastava, Member (A)

1. Shyam Narayan Ram,
R/o J-528, Amedkar Basti,
West Block, R.K.Puram,
New Delhi.
2. Nand Kumar Prasad,
R/o A-1/341, Madhu Vihar,
Uttam Nagar, New Delhi-110 059.
3. Umarao Singh,
R/o A-183, Pratap Vihar,
Ghora Colony, Ghaziabad.
4. Dayal Singh,
R/o G-1/311, Uttam Nagar,
New Delhi.

- Applicants

(By Advocate Shri M.K. Bhardwaj)

VERSUS

Union of India & Ors through:

1. The Secretary,
Ministry of Finance,
North Block, New Delhi.
2. The Secretary,
Govt. of India,
Ministry of Expenditure,
North Block, New Delhi.
3. The Secretary,
Ministry of Defence,
South Block, New Delhi.

4. The JS (Trg.),
Ministry of Defence,
South Block, New Delhi.

5. The Joint Director,
Joint Cipher Bureau,
Department of Defence (R&D),
M/o Defence, Metcalfe House,
MG Road, Delhi-110054.

-Respondents

(By Advocate Shri H.K. Gangwani)

ORDER

Mr. K.N. Shrivastava, Member (A):

Through the medium of this Original Application (OA) filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed for the following main reliefs:

“i) To quash and set aside the impugned order dated 25.10.2010 and direct the respondents to grant pay scale of Rs.4000-6000 to the applicants w.e.f. 01.01.1996 with all arrears and interest @18%.

ii) To direct the respondents to remove the anomaly in the pay scale of Binder Grade II and Asst. Binder by granting the pay scale of Rs.4000-6000 to Binder Grade II as given to the identically placed persons in Govt. of India Press as well as Printing Press Staff.”

2. This is the 5th round of litigation between these parties on the issue. The brief facts of this case are as under:

2.1 The applicants joined the Printing Press staff, JCB, which comes under the Ministry of Defence as Bindery Assistant. In the due course they were promoted to the post of Binder Grade-II. In

the promotional hierarchy the next post available to them is that of Binder Grade-I.

2.2 The grievance of the applicants is that while in Government of India Press, which comes under the Ministry of Urban Development, the pay scales of personnel in binding trade has been revised but the same has not been done in case of Printing Press staff JCB, albeit the nature of work being the same. They have further averred in the OA that as per the 5th Central Pay Commission (CPC) recommendations, the Grades of Binder-I and Binder-II in Government of India Press have been merged onto one but the same has not been done in the case of the applicants. Consequently, they approached this Tribunal in OA No.167/2006, seeking parity with the Binders of Government of India Press. The said OA was disposed of vide order dated 20.11.2006; the operative part of which reads as under:

“.....impugned order is set aside. Matter is remitted back to the Ministry of finance to be re-examined for grant of revised pay scale to the applicants at par with their counter parts in accordance with law by a reasoned and speaking order to be issued within three months from the date of receipt of copy of this order.”

2.3 As the respondents did not implement the directions of the Tribunal in OA-16/2006, the applicants filed Contempt Petition (CP) No.173/2007. The Tribunal after hearing the CP, vide order dated 15.11.2007 closed it with direction that the respondents shall issue a fresh order taking notice of all the relevant facts and in the light of

the decision of the Ho'ble Supreme Court in **Union of India v. A.J. Kuntu**, [2007 AIR SCW 6227]. The Tribunal granted two months time to comply with its directions. In obedience to the ibid directions of the Tribunal, the respondents passed a speaking order dated 17.01.2008.

2.4 The applicants not satisfied with the order of the respondents, approached this Tribunal again by filing OA No.825/2008, which was disposed of vide order dated 13.05.2010; the operative part of which reads as under:

“8. While there is no gainsaying that parity between different posts cannot be established unless wholesale identity is established between such posts. This is the law laid down by the Honourable Supreme Court in the judgments quoted by the Respondents in the impugned order. But their responsibility does not come to an end merely by quoting the judgments. No effort whatsoever has been made to compare the corresponding posts in the GOI Press and the JCB Press. It is not a complex exercise. These are not such high level posts as to make comparison in their respective duties so complex as to be forbidding. In fact a question immediately arises as to the basis for the Respondents claim that the work and nature of the post of Binder in GOI Press and Binder Grade II in JCB Press is different. There has been no consideration of the same work being performed by Binder Grade I and Grade II, which has been well documented in the communication dated 5.05.2003, copiously quoted in the preceding paragraph.

9. In the light of the above observations and the judgment of the Honourable Delhi High Court in an identical case in WP (C) number 1350-52/2004, quoted above, we set aside the impugned order dated 17.01.2008. The Respondents are directed to reconsider the whole matter in the light of the judgment of the Honourable High Court and our observations and decide the matter by passing a detailed order examining all the issues in detail. This exercise shall be completed not later than three months from the receipt of a copy of this order.”

2.5 In obedience of the ibid order of the Tribunal in OA No.825/2008, the respondents passed order dated 25.10.2010.

2.6 The applicants filed CP (C) No.925/2010 in OA-825/2008, alleging wilful disobedience of respondents in implementing the order dated 25.10.2010. The said CP was closed vide order dated 07.01.2011 with leave and liberty. Review Application (RA) No.68/2011 against the order in the CP was also disposed of vide order dated 15.03.2011.

2.7 The applicants in the instant OA have challenged the order dated 25.10.2010 (Annexure A-1). The impugned order has rejected the basic demand of the applicants for merging the post of Binder-II (pay scale Rs.950-1500-4th CPC) with the post of Binder Grade-I (pay scale of Rs.1200-2040-4th CPC) as has been done in the case of Government of India Press as per the 5th CPC recommendations. Incidentally, the replacement pay scale for the merged scales of Binders in 5th CPC is Rs.4000-6000.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicants thereafter filed their rejoinder. The respondents in their reply have primarily relied upon the advice of the Ministry of Finance on the issue, which reads as under:

“It has been observed that the case has to be defended by the administrative Department being a cadre controlling authority of the petitioners. The case has again been considered in Ministry of Finance and it is observed that 5th CPC in para 55.225 of the report has stated that binders in Air Headquarters may be placed in the following pay scale as in GOI Presses

Assistant Binder

Rs. 950-1500

↓		
6 years		
Binder Gde II	Rs 1200-1800	Merged
3 years ↓		
Binder Grade I	Rs 1320-2040	

It is further observed that this reference in the 5th CPC report cannot be take as a specific recommendations for upgrading the pay scale of the post of Binder grade II from the pay scale of Rs. 950-1500 to the pay scale corresponding to Rs.1200-1800/1320-2040. Merger of pay scale of Rs.1200-1800 and Rs.1320-2040 in case of binders was done to rationalized the pay scales. It is also advised to refer the matter to the 6th Pay Commission which has already been constituted.”

3.1 The respondents in their reply have also attempted to equate Binders Grade-II of JCB (applicants’ grade) with that of Assistant Binder in Government of India Press and in support of which they have presented the following table in the reply:

Binder Gde II O/o JS (T) & CAO SRO 28 dt 29 Dec 2000	Assistant Binder Govt of India Press G.S.R.218 dated 29 May 2003
Educational Qualification for Direct Recruitment	Educational Qualification for Direct Recruitment
(i) Matriculation or equivalent qualification from a recognized University/Board (ii) Trade Certificate of successful completion of Apprenticeship trading under the Apprenticeship Act, 1961 (52 of 1961) as amended from time to time; <p style="text-align: center;">OR</p> Three years experience of the trade	(i) Matriculation (10 th class) Pass from a recognized School or Board (ii) Certificate of successful completion of Apprenticeship under the Apprenticeship Act, 1961 (52 of 1961). <p style="text-align: center;">OR</p> Certificate of successful completion of vocational course at +2 level in Printing Technology.
Pay Scale: Rs.3050-75-3950-80-4590	Pay Scale: Rs.3050-75-3950-80-4590

3.2 To substantiate their contention that the Binders Grade-II in JCB are different than the Binders Grade-II in Government of India Press, they have distinguished the Recruitment Rules (RRs) of the two posts as under:

“(e) On perusal of the RR for the post of Binder GR II in JCB, it is observed that they are recruited by absorption failing which by direct recruitment. Absorption is to be done from the Officers holding the post of Bindery Assistant on regular basis in Armed Forces Headquarters/Inter Service Organisations. However, in case of Binder in GOI Press they are recruited by promotions failing which by deputation. Therefore it is clear that in case of GOI Press they have a proper hierarchy.”

3.3 Further, the distinction between the hierarchies of Binder staff in Government of India Press and in JCB has been made by the respondents in the following tables given in the reply of the respondents:

a) **Hierarchy of Binder staff of Government of India Press:**

No.	Name of Post	Pay Scale (as per 4 th CPC)	Pay scale (as per 5 th CPC)	Pay Scale (as per 6 th CPC)
1.	Assistant Binder	Rs.950-1500	Rs.3050-4590	PB-1 [Rs.5200-20200]+GP Rs.1900
2.	Binder	Rs.1200-1800	Rs.4000-6000	PB-1 [Rs.5200-20200]+GP Rs.2400
3.	Special Gr. Binder [there are only 2 posts of Sp. Gr. Binder in GITBP Mysore only)	Rs.1320-2040	Rs.4000-6000	PB-1 [Rs.5200-20200]+GP Rs.2400
4.	Section Holder (Bindery)/Time Checker Bindery Gp 'C'	Rs.1400-2300	Rs.4500-7000	PB-1 [Rs.5200-20200]+GP Rs.2800
5.	Forman (Bindery)	Rs.1600-2660	Rs.5000-8000	PB-2[Rs.9300-34800]+GP Rs.4200

b) **Hierarchy of Binder staff in JCB and Government of India Press:**

No.	Name of post in JCB/Air HQ	Pay scale	Name of post in Dte of Printing	Pay scale
1.			Foreman (Bindery)	R.1600-2600 (IV CPC) Rs.5000-8000 (VCPC) PB-2+GP Rs.4200/- (VICPC)
2.	Section Holder Binding Gp 'C'	Rs.1400-2300 (PR)(IVCPC) Rs.4500-7000 (PR) (VCPC) PB-1 [Rs.5200-20200 (R) (VI CPC with GP Rs.2800/-	Section Holder (Bindery)/Time Checker Bindery	Rs.1400-2300 (IVCPC) Rs.4500-7000 (VCPC) PB-1+GP Rs.2800(VI CPC)
3.			Special Gr. Binder [there are only 2 posts of Spl. Gr. Binder in GITBP, Mysore Only)	Rs.1320-2040 (IV CPC) Rs.4000-6000 (VCPC) PB-1+GP Rs.2400/-(VI CPC)
4.	Binder Gr.I Gp 'C'	Rs.1200-2040 (PR)(IV CPC) Rs.4000-6000 (PR) (V CPC) Rs.5200-20200 (R) (VI CPC with GP 2400)	Binder	Rs.1200-1800 (IV CPC) Rs.4000-6000 (VCPC) PB-1+GP Rs.2400/- (VI CPC)
5.	Binder Gr.II Gp 'C'	Rs.950-1500 (PR) (IV CPC) Rs.3050-4590 (PR) (V CPC) Rs.5200-20200 (R) (VI CPC with GP 1900)	Assistant Binder	Rs.950-1500 (IV CPC) Rs.3050-4590 (V CPC) PB-1+GP Rs.1900/- (VI CPC)
6.	Assistant Binder Gp. 'C'	Rs.950-1500 (PR) (IV CPC) Rs.3050-4590 (PR) (V CPC) Rs.5200-20200 (R) (VI CPC with GP 1900)	-	-

3.4 The sum and substance of the contention of respondents in their reply is that the Binder staff of JCB and those of Government of India Press cannot be compared in terms of their RRs and promotional hierarchy and hence the parity sought by the applicants for Binder staff of JCB with those of Government of India Press cannot be granted.

4. The arguments of the learned counsel for the parties were heard on 24.10.2016.

5. Admittedly, the hierarchy of posts in the two organizations, namely JCB and Government of India Press are different and so also their RRs. As a matter of fact, the essential qualifications prescribed for the post of Binder Grade-II in JCB is akin to that of Assistant Binder of Government of India Press. The case of the applicants seeking parity with their counterparts in Government of India Press has been adjudicated by this Tribunal twice in the past in OA NO.167/2006 and OA No.825/2008. The respondents have passed the impugned Annexure A-1 order dated 25.10.2010 in compliance with the Tribunal's directions in the earlier OAs. This reply is primarily based on the advice of the Ministry of Finance, which, *inter alia*, also states as under:

“It is also advised to refer the matter to the 6th Pay Commission which has already been constituted.”

6. The revision of pay scales, merging of the pay scales etc. are such issues for which Government of India has devised the mechanism of a Technical Body called Central Pay Commission (CPC). We entirely agree with the recommendations of the Ministry of Finance, which has been quoted by the respondents in their reply. On this issue, the learned counsel for the respondents drew our attention to a judgment of Hon'ble Supreme Court in the case of

Union of India & Another v. T.V.L.N. Mallikarjuna Rao, [(2015) 3

SCC 653], wherein it has been held that:

“The classification of posts and determination of pay structure comes within the exclusive domain of the executive and the Tribunal cannot sit in appeal over the wisdom of the executive in prescribing certain pay structure and grade in a particular service. There may be more grades than one in a particular service.”

7. The judgment of the Hon’ble Apex Court in **T.V.L.N. Mallikarjuna Rao** (supra) fortifies the view that all such matters are to be decided by the executive who in turn has created the mechanism of CPC.

8. The applicants have been craving for parity with their counterparts in Government of India Press in terms of the recommendations of the 5th CPC. They had the opportunity of representing their cases before the competent forum as that of 6th CPC and thereafter 7th CPC, which apparently they have frittered away. We are of the firm view that this Tribunal cannot adjudicate the matter relating to pay scale parity/pay revision of the applicants as per the ratio of law laid down by the Hon’ble Apex Court in **T.V.L.N. Mallikarjuna Rao** (supra). We find that the impugned Annexure A-1 order dated 25.10.2010 is a reasoned and speaking order and we do not find any fault with it.

9. In the conspectus of the discussions in the foregoing paras, the OA is found to be devoid of any merit. It is accordingly dismissed.

10. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

‘San.’