

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No.3180/2014  
M.A. No.2724/2014

Order Reserved on: 13.12.2016  
Order pronounced on: 20.12.2016.

**Hon'ble Dr. K.B. Suresh, Member (J)  
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Vijay Kumar Chopra (SE-Retd.),  
Aged about 67 years,  
S/o Late Shri R.P. Chopra,  
R/o 198, Nilgiri Apartment,  
Alaknanda, New Delhi-19.
2. Jagat Singh Yadav (SE Retd.),  
Aged about 67 years,  
S/o Shri Srichand Yadav,  
R/o H.No.28, Village Said-ul-Ajaib,  
P.O. Mehrauli, New Delhi-30.
3. D.K. Jain (SE Retd.),  
Aged about 68 years  
S/o Shri R.S. Jain,  
R/o 53, Shanti Vihar,  
Delhi-92.
4. N.K. Seth, (SE-Retd.),  
Aged about 68 years,  
S/o Shri L.R. Seth,  
R/o 203-G MIG (Green),  
Rajouri Garden,  
New Delhi-27.
5. Brij Bhushan Airy (SE-Retd.),  
Aged about 66 years,  
S/o Late Shri S.N. Airy,  
R/o 2/121, Sadar Bazar,  
Delhi Cantt-10.
6. Janeshwar Tyagi (SE-Retd.),  
Aged about 65 years,  
S/o Late Shri Inderjeet Tyagi,  
R/o 12-B, Pkt-1, Mayur Vihar Ph-1,  
Delhi-91.

7. Karan Singh (SE-Retd.),  
Aged about 66 years,  
S/o Shri Jaswant Singh,  
Flat No.8-B, Pocket A5C,  
Janak Puri, New Delhi-58.
8. Shri S.K. Anand (SE-Retd.),  
Aged about 63 years,  
S/o Shri M.C.Anand,  
Flat No.284, Shree Keshav Kunj Apartment,  
Sec-17, Pkt.-D, Dwarka,  
New Delhi-75.
9. Suresh Chandra Agarwal (SE-Retd.),  
Aged about 63 years,  
S/o Late Shri Prem Chandra,  
R/o C-47, Sector-15,  
NOIDA-201301.
10. Vinod Sawhney (SE-Retd.),  
Aged about 62 years,  
S/o Shri M.L. Sawhney,  
R/o ED-52A, Pitam Pura,  
Delhi-34.
11. Virendra Singh (SE-Retd.),  
Aged about 63 years,  
S/o Shri Nahar Singh,  
R/o IX/4992, Kaushik Puri,  
Gandhi Nagar, Delhi-31.
12. Anil Kumar Singh (SE-Retd.),  
Aged about 62 years,  
S/o Shri G.P. Singh,  
R/o D-233, IIInd Floor,  
Ramprastha,  
Ghaziabad U.P.
13. S.K. Leekha, SE(Retd.),  
Aged about 65 years,  
S/o Shri Charan Dass,  
R/o C-602, Antriksh Apartment,  
Plot No.26, Sector-4, Dwarka,  
New Delhi-75.

-Applicants

(By Advocate: Shri M.K. Bhardwaj)

## **Versus**

DDA & Ors. through :

1. Lt. Governor,  
Govt. of NCT of Delhi,  
Raj Niwas,  
Delhi.
2. The Vice Chairman,  
DDA, Vikas Sadan,  
INA, New Delhi.

-Respondents.

(By Advocate : Ms. Sriparna Chatterjee)

## **O R D E R**

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

MA No.2724/2014 filed under Rule-4 (5) (a) of Central Administrative Tribunal (Procedure) Rules, 1987, for joining together in single application is allowed.

2. Through the medium of this OA filed under Section-19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following specific reliefs:-

- “i) To quash and set aside the impugned order 11.07.2014 to the extent the condition of 9 years of combined service in the grade of Rs.15600-39100/- with grade pay of Rs.7600/- (SE) and Rs.6600/- (EE) has been provided to grant pay scale of Rs.37400-67000 with grade pay of Rs.8700/-.
- ii) To direct the respondents to grant pay scale of Rs.37400-67000/- with grade pay of Rs.8700/- to the applicants from the date of promotion as SE (C) with arrears of pay and 18% interest”.

3. The brief facts of this case are as under:-

3.1. The applicants retired as Superintending Engineers (SEs) from Delhi Development Authority (DDA) between the years 2006 to

2014. Their grievance is that as per the 6<sup>th</sup> Central Pay Commission (6<sup>th</sup> CPC) recommendations, the SEs have been granted the pay scale of Rs.37400-67000 (PB-4) with grade pay of Rs.8700, which has been given to SEs in CPWD and other Central Government Departments, whereas they have been denied of that. Apparently, as per the Recruitment Rules (RRs), SEs in DDA are in the pay scale of Rs.15600-39100 (PB-3) with Grade Pay 7600/-. They are granted financial upgradation in the Non-Functional Selection Grade (NFSG) of Rs.37400-67000 (PB-4) with Grade Pay 8700/- (Annexure A-1). The SEs in DDA become entitle for NFSG in Pay Band of Rs. 37400-67000/- with Grade Pay of Rs.8700/- on completion of 9 years of combined service in the grade of Rs.15600-39100/- with Grade Pay of Rs.7600/- (PB-3) as SEs and Rs.15600-39100/- with Grade Pay of Rs.6600/- as Executive Engineers (EEs).

3.2. Annexure A-1 order also indicates that the limit of 30% of senior duty posts for the purpose of grant of NFSG shall not apply, meaning thereby that all the eligible SEs on completion of 13 years of combined service as EE and SE would be entitled for the NFSG without any number restriction. Obviously, Annexure A-1 obstructs their claim of equality with SEs in CPWD and other Central Government Departments.

3.3. Aggrieved by the Annexure A-1 order dated 11.07.2014 of DDA (Respondent No.2) the applicants have filed the instant OA.

4. Pursuant to the notices issued, the respondents entered appearance and filed their reply stating therein the following important points:-

i) Most of these applicants were also applicants in OA No.3288/2010 – **Shri Lalit Mohan & Ors. v. DDA & Anr.**, seeking pay parity with SEs in CPWD. As per the commendations of the 5<sup>th</sup> CPC, SEs in the CPWD were in the pay scale of Rs.14300-18300/- whose replacement pay scale, under 6<sup>th</sup> CPC, is Rs.37400-67400/- (PB-4) with Grade Pay of Rs.8700/-. The SEs in DDA also wanted the same pay scale but was declined to them by the DDA and consequently they filed the ibid OA No.3288/2010. The said OA was disposed of by the Tribunal vide order dated 02.02.2012 by observing as under:-

“15. Though the above communication provides the reasons which are in conformity with DDA order dated 1.12.1999 and DOP&T OM dated 06.6.2000, but has not clearly indicated the replacement pay scale for the SE in DDA and the applicantsentitlement in the 6th CPC. During the 5th CPC, there were two types of SEs in the DDA i.e. (i) the SEs fulfilling both the eligibility criteria entitled to Rs.14300-18300 and (ii) the SEs not in respect of both eligibility conditions but promoted as SE getting pay in the pay scale of Rs.12000-16500. As per the Government decision on the 6th CPC recommendations, the replacement pay bands and Grade Pay for the two pay scales of 5th CPC are as follows :-

Sl. No.	5th CPC Pay Scale	6th CPC Pay Band + Grade Pay
01.	Rs.12600-16500	PB 3 - Rs.15600-39100 + Rs.7600
02.	Rs.14300-18300	PB 4- Rs.37400-67000 + Rs.8700

16. On a careful examination, it is noted that 1st category of SEs would definitely be entitled to get Rs.37400-67000 with Grade Pay Rs.8700. However, it is for the executives to work out the replacement Pay Band and Grade Pay for each of the applicants who have been in service as on 01.01.2006 and intimate all of them by separate orders.”

For getting the pay scale of Rs.14300-18300 (5<sup>th</sup> CPC), 4 years of regular service in the pay scale of Rs.12600-16500 would be necessary. Regarding grant of the replacement scale of Rs.37400-67000 with Grade Pay of Rs.8700/-, the Tribunal directed the DDA to work out the replacement Pay Band and Grade for each of the applicants in that OA.

- ii) Keeping in mind the order of the Tribunal in OA No.3288/2010, the respondents vide the impugned Annexure A-1 order dated 11.07.2014 have clarified that the NFSG pay scale of Rs.37400-67000 (PB-4) with Grade Pay of Rs.8700/- would be given only to those SEs who have put in 9 years of combined service in Grade Pays of Rs.7600/- & Rs.6600/- in PB-3.
- iii) The Annexure A-1 order has been kept in abeyance by the respondents in view of the fact that the commensurate amendments to the RRs have not yet been carried out.
- iv) In DDA, an officer in the grade of EE gets promoted to the grade of SE after 7 years of regular service, whereas in CPWD the time taken is 9 years. As such, SEs in DDA and CPWD cannot be compared.
- v) There is no fresh cause of action on account of which the instant OA could have been filed.

5. With the completion of the pleadings, the case was taken up for hearing the arguments of the parties on 13.12.2016. The arguments of the learned counsel of the parties were heard.

6. The learned counsel for the applicants submitted that by denying to the applicants and other SEs of DDA, the pay scales of SEs as available in CPWD and other Central Government departments, the respondents have violated the equality principle enshrined under Articles 14 and 16 of the Constitution of India. He further submitted that its ironical that the DDA is having two pay scales for SEs, first one in PB-3+Grade Pay Rs.7600 and second one (as NFSG) PB-4 with Grade Pay of Rs.8700/-. He also submitted that the 6<sup>th</sup> CPC has recognized only one cadre of SEs in the Central Government/Public Sector Undertakings/Local Bodies. Insistence on 13 years of regular service in a Group 'A' post is not there in CPWD. In the organizations like APMC, DTTDC, Guru Govind Singh IP University, JNU, IITs, SEs have been granted scale in the PB-4 with Grade pay of Rs.8700.

6.1 The learned counsel also stated that the Hon'ble Apex Court in a catena of judgments has laid the principle of 'equal pay for equal work'. In this connection, he cited the judgments in **Mewa Ram Kanojia v. AIIMS**, [ATJ 1989 (1) SC 654], **Union of India & Ors. v. Dineshan K.K.**, [AIR 2008) SC 1026] and **D.S. Nakara v. Union of India**, [(1983) 1 SCC 304].

7. The learned counsel for the respondents argued that the present OA is barred by the doctrine of *res judicata* as the issues raised in this OA are the same which were raised in OA-3288/2010 (supra), which has already been adjudicated by this Hon'ble Tribunal. Nevertheless, the observations made by the Tribunal in paras 15 & 16 of its order dated 02.12.2012 (reproduced at para 4 (i) supra), the matter is under re-examination of the respondents and necessary orders will be issued in due course of time with the approval of the competent authority. The learned counsel stated that the issue of pay scale parity with SEs of APMC, DTTDC, Guru Govind Singh IP University, JNU etc. was raised by the applicants in the said OA but the plea was rejected by the Tribunal (para 12 of the order).

8. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings. Admittedly, most of the applicants were also applicants before the Tribunal in OA-3288/2010 (supra). The issue raised in both the OAs find substantial similarity. The Tribunal in the said order has only directed the respondents to work out the replacement Pay Bands and Grade Pay for each of the applicants, who have been in service as on 01.01.2006, i.e., the date with effect from which the recommendations of the 6<sup>th</sup> CPC were implemented. It is worthwhile to reproduce the main reliefs claimed by the applicants in OA-3288/2010 (supra):

“i) to quash and set aside the impugned order 15/2/2010 and direct the respondents to grant higher pay scale Rs.14300-18300 with all consequential benefits including the pay scale of Rs.37400-67400-PB-4 (6th CPC) to the applicants with all consequential benefits including arrears of pay.

ii) to direct the respondents to remove the anomaly by revising the pay scale of applicants to Rs.14300-16300 (37400-67400) from 1/1/1996 and 01.01.2006 with arrears of pay with 18% interest.

8.1 The Tribunal has not granted the reliefs prayed for. The Tribunal, however, has only observed that first category of SEs would be entitled to get the pay scale of Rs.37400-67000 with Grade Pay of Rs.8700/- and has expected the respondents to work out the replacement Pay Band and Grade Pay for each of the applicants who were in service as on 10.10.2006. We also take into consideration the extant RRs in CPWD and DDA for promoting an officer from EE cadre to SE cadre. The length of service required varies in the two Organizations. In DDA an EE becomes SE much earlier in comparison to an EE becoming SE in CPWD.

9. In the conspectus of the discussions in the foregoing paras, we do not find any merit in the instant OA. The OA is accordingly dismissed. No order as to costs.

10. Before parting, we would like to re-iterate that as observed by the Tribunal in its order dated 02.12.2012 in OA-3288/2010, the respondents are expected to consider and pass an appropriate order for granting the pay scale of Rs.37400-67000 with Grade Pay Rs.8700/- to all those eligible seniors SEs of DDA, who were in

service as on 01.01.2006. We trust that the respondents would take necessary action in the matter with early alacrity.

**(K.N. Shrivastava)**  
**Member (A)**

**(Dr. K.B. Suresh)**  
**Member (J)**

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