

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.4074/2014

Order Reserved on:30.11.2016

Pronounced on:03.12.2016.

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

1. Vimal Prasad Semwal,
Aged about 40 years,
S/o Sh. A.P.Semwal,
Working as Optical Worker (MCM),
R/o D)-Raksha Puram,
Ladpur, Raipur Road,
Dehradun.
2. Sheesh Pal Singh,
Aged about 50 years,
S/o Sh. Baldev Singh Negi,
Working as OPT Worker (MCM),
R/o IQC-57, QC (Optical),
Ordnance Factory, Raipur,
Dehradun.
3. Manjeet Arora,
Aged about 50 years,
S/o Sh. Sohan Lal,
Working as OPT Worker (MCM),
R/o 329, Smith Nagar,
Krishna Vihar, PO Prem Nagar,
Dehradun-248001.
4. Shanti Prasad Nautiyal,
Aged about 50 years,
S/o Sh. B.R. Nautiyal,
Working as OPT Worker (MCM),
R/o C-4/13, New Type-3,
ORD FY Estate Raipur,
Dehradun-248008.
5. Chander Pal Singh,
Aged about 48 years,
S/o Sh. Kalu Ram,
Working as OPT Worker (MCM),

R/o Opp. Little India School,
Village Ladpur, Raipur Road,
Dehradun-248008.

6. Umesh Chandra Weerodal,
Aged about 49 years,
S/o Late Sh. Kuber Nath
Working as OPT Worker (MCM),
R/o C-243/2, New Type-3,
ORD FY Estate Raipur,
Dehradun-248008.
7. Chander Jeet Prasad,
Aged about 50 years
S/o Sh. R.S. Prasad,
Working as OPT Worker (MCM),
R/o Q-77/3, OFD Estate,
Raipur, Dehradun.
8. Kuldeep Singh Rawat
Aged about 47 years,
S/o Late Sh. K.S.Rawat,
Working as OPT Worker (MCM),
R/o Shakumbhari Sadan,
Garhwali Colony, Nehru Gram,
Dehradun.
9. Anil Kumar Vipin,
Aged about 49 years
S/o Sh. Ram Singh,
Working as OPT Worker (MCM),
R/o C-26/6, New Type-III,
OFD Estate, Raipur,
Dehradun.
10. Pradeep Kumar Sharma
Aged about 47 years,
S/o Late Sh. V.N.Sharma,
Working as OPT Worker (MCM),
R/o C-37/3, New Type-III,
OFD Estate Raipur,
Dehradun.
11. Raj Kumar Singh,
Aged about 47 years,
S/o Sh. Sher Singh,
Working as OPT Worker (MCM),
R/o QA-35/4, OFD Estate, Raipur,
Dehradun, Uttrakhand-248008.

12. Bharat Prasad,
Aged about 49 years
S/o Sh. Netrapal,
Working as OPT Worker (MCM),
R/o 49, Society Area,
Post Office Road, Clement Town,
Dehradun.
13. Dhirendra Kumar Tyagi,
Aged about 47 years,
S/o Late Sh.S.S. Tyagi,
Working as OPT Worker (MCM),
R/o C-19/6, New Type-III,
OFD Estate, Raipur,
Dehradun.
14. Sulok Sinha,
Aged about 47 years,
R/o 28/1, OFD Estate, Raipur,
Dehradun.
15. Surendra Singh,
Aged about 48 years,
S/o Sh. Kishan Lal,
Working as OPT Worker (MCM),
R/o Sewla Kalan, Mazra,
Dehradun.
16. Vijay Kumar Sarna,
Aged about 46 years,
S/o Sh. Mangat Ram Sarna,
Working as OPT Worker (MCM),
R/o 75, Suman Puri, Adhoiwala,
Dehradun.
17. Sanjeev Kumar Bahuguna,
Aged about 47 years,
S/o Sh. S.P.Bahuguna,
Working as OPT Worker (HS-1),
R/o C-245/3, OFD Estate,
Raipur, Dehradun.
18. Sanjay Barthwal,
Aged about 46 years,
S/o Late Sh. B.D. Barthwal,
Working as OPT Worker (HS-1),
R/o B-21, Divya Vihar,

Danda, Dharampur,
PO Nehrugram, Dehradun-248008.

19. Kamal Kumar Upreti,
Aged about 46 years
S/o Sh. Dinesh Chandra Upreti,
Working as OPT Worker (HS-1),
R/o Village Gorakhpur (Arkedia Grant)
PO Barowala (Prem Nagar),
Dehradun-248007.
20. Ashish Nautiyal,
Aged about 47 years,
S/o Sh. J.P.Nautiyal,
Working as OPT Worker (HS-1),
R/o 428, Lower Nathan Pur,
PO Nehrugram, Dehradun.
21. Mahendra Singh Rawat,
Aged about 46 years,
S/o Late SH. K.S. Rawat,
Working as OPT Worker (HS-1),
R/o H.No. 211, Village Miyan Wala,
Near Pili Kothi, Canal Road,
PO Harrawala, Dehradun.
22. Rajendra Singh Negi,
Aged about 47 years,
S/o Late Sh. B.S. Negi,
Working as OPT Worker (HS-1),
R/o Lane No. 2, Garhwal Colony (Upper),
Village Ladpur, Dehradun.
23. Raj Kumar Sharma,
Aged about 46 years,
S/o Sh. Suresh Kumar Sharma,
Working as OPT Worker,
R/o C-4/14, OFD Estate,
Raipur, Dehradun-248008. ... Applicants

(By Advocate: Mr. M.K.Bhardwaj)

VERSUS

Union of India & Ors through:

1. The Secretary,
Govt. of India,
Ministry of Defence,

South Block, New Delhi-110001

2. Director General,
Ordnance Factory & Chairman,
Ordnance Factory Board,
10-A, Shaheed Khudi Ram Bose Road,
Kolkata.
3. The General Manager,
Ordnance Factory Dehradun,
Ministry of Defence,
Govt. of India, Dehradun. ... Respondents

(By Advocate: Dr. Chaudhary Shamsuddin Khan)

O R D E R

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 specific reliefs:

“(i) To direct the respondents to extend the benefits of order passed in OAs No.956-960/2008 to the applicants.

(ii) to direct the respondents to grant the pay scale of Rs.330-480 (pre-revised) to applicants as given to similarly placed persons vide order dated 01.08.2013 with all consequential benefits including arrears of pay.

(iii) to declare the action of the respondents in not granting the grade of Rs.330-480/4000-6000 as illegal, arbitrary and issue appropriate directions for grant of aforesaid scale from due date as given to Sh. Ganesh Singh, Rajesh Dutta etc.”

2. The factual matrix of this case is that the applicants were appointed as Optical Workers (Skilled) during the years 1984-1988 (Annexure A-2). Some of the Optical Workers who were actually deployed on the duty of Photo-Etcher (Graticule) had filed OAs-956-960/2008 before the Allahabad Bench of this

Tribunal claiming that since they had been performing the duties of Photo-Etcher (Graticule), as such they should be given the pay scale of that post. The Coordinate Bench allowed the said OAs by a common order dated 08.02.2011.

The operative part of the said order reads as under:

“13. For the reasons mentioned above, we are of the opinion that the applicants in the afore mentioned Original Applications are entitled for ‘Equal Pay for Equal Work’ as these applicants had been discharging the same duties as that of Photo-Etcher (Graticule) like that of respondents No.3 and 4 and they are entitled to the same upgraded scale of Rs.330-480 pre revised scale of Rs.3050-4590 to Rs.4000-6000/-. The Order dated 10.07.2008 is liable to be quashed and the applicants are entitled for revision of their scale Rs.330-480 from the date of their initial appointment. Original Applications deserve to be allowed.”

2.1 The above order of the Tribunal was implemented by the respondents in the cases of the applicants therein.

2.2 The applicants in the instant OA approached the respondents seeking the same benefits that were given to the Optical Workers who were applicants before the Allahabad Bench. The respondents vide impugned Annexure A-1 communication dated 18.04.2014 have declined the request of these applicants. One such communication at Annexure A-1 reads as under:

“Your application regarding stepping up of pay has been duly considered by competent authority and it is to intimate that stepping up of pay can be considered when under mentioned conditions are satisfied:-

- a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre.

b) The scale of pay of the lower and higher posts in which they are entitled to draw pay should be identical.

c) The anomaly should be directly as a result of the application of FR22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments the above provisions will not be invoked to step up the pay of the senior officer.

Your juniors S/Shri Rajesh Dutta A11-45 (2421) have granted higher pay scale of Rs.1200 Rs.1800 (as per IVth CPC) as per orders of Hon'ble CAT Dt.08/02/2011, in OA No.956-960 of 2008. Since above order is specific, it can not be generalized for others. The above granting of higher pay scale is thus not a normal pay fixation in accordance with SRO & FR.

In view of the above, instruction and court orders in instant case it is very clear, there is no case for stepping up as the anomaly has not accorded as a result of application FR 22-(C) (now known as RF22(I)a)."

2.3 Aggrieved by the rejection of their claim by the respondents, the applicants have filed the instant OA.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The thrust of the averments made by the respondents in their reply is that the applicants in this OA have continued to work as Optical Workers unlike the applicants covered in the order of the Allahabad Bench dated 08.02.2011. It is emphatically argued that the applicants before the Allahabad Bench, although appointed as Optical Workers, but in fact were deployed to perform the duties of Photo-Etcher (Graticule) and consequently the Bench directed the respondents to place them in the pay scale of Photo-Etcher (Graticule) following the principle of 'equal pay for equal work'.

4. The brief arguments of the learned counsel for the parties were heard on 30.11.2016.

5. Admittedly, the applicants in the instant OA and those before the Allahabad Bench of this Tribunal were all appointed as Optical Workers. The applicants before the Allahabad Bench were actually performing the duties of Photo-Etcher (Graticule). The Allahabad Bench accepting their plea and following the principle of 'equal pay for equal work' granted them the relief and directed the respondents to place them in the pay scale of Photo-Etcher (Graticule) and the same has been implemented. The plea of the applicants in the instant OA that they are entitled for the same relief that has been granted by the Allahabad Bench is not tenable. Two cases are entirely different. The applicants before the Allahabad Bench were in fact performing the duties of Optical Workers Photo-Etcher (Graticule). In the light of these stark realities, we are of the view that there is no merit in the OA and the OA is liable for dismissal. Accordingly, the OA is dismissed.

6. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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