

**Central Administrative Tribunal  
Principal Bench**

**OA No.2509/2016  
MA No.614/2019  
MA No.2292/2016**

New Delhi, this the 28<sup>th</sup> day of May, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Sh. K.K. Braroo, Age 60 years,  
S/o Late Sh. Dinanath Braroo,  
R/o B-32, Ayodhya Kunj,  
3<sup>rd</sup> Floor, East Uttam Nagar,  
New Delhi.
2. Sh. P.P. Sinha, Age 63 years,  
S/o Late Jagganath Prasad Sinha,  
R/o P-1602, Jaipuria Sunrise Greens,  
Ahinsakhand, Indirapuram,  
Gaziabad-201014.
3. Capt. A.M. Surej (Retd.), Age 60 years,  
S/o Late M.P. Jayanand,  
R/o 10-C, C-75, Nilgiri-3,  
Sector-34, Noida-201301.

...applicants

(By Advocate : Ms. Ankita Patnaik)

**Versus**

1. Union of India,  
Through Secretary,  
Ministry of Shipping,  
Transport Bhawan,  
Parliament Street,  
New Delhi-110001.
2. The Director General,  
Department of Light Houses & Light Ships,  
Ministry of Shipping,  
“Deep Bhavan”  
Sector-24, Noida,  
Uttar Pradesh-201301.

...Respondents

(By Advocate : Shri Satish Kumar )

**ORDER (ORAL)****Justice L. Narasimha Reddy, Chairman :-**

The applicants retired from the service of Department of Light Houses and Light Ships, Ministry of Shipping, as Directors. While they were in service, an Office Order dated 22.10.1997 was issued through which, the existing pay scale of Rs.3000-4500 was revised to Rs.12000-16500. However, on 02.06.1999, an order was issued, withdrawing the same. The applicants started making representations about their grievances. Initially, they were informed through a letter dated 27.04.2009, stating that the proposal for upgradation of the pay scales of the Deputy Director and Director were sent to Ministry of Finance and since the same was not acceded to, no relief can be granted to them. The applicants cited the case of one Shri R.K. Bhanti, Ex-Director. On that, a reply was issued on 07.07.2009, stating that the matter pertaining to Shri R.K. Bhanti, Ex-Director, regarding upgradation, is pending decision and in that view of the matter, no steps can be taken on the representation of the applicants.

2. Shri R.K. Bhanti filed several cases, seeking redressal. He filed OA No.304/2007 before the Ahmedabad Bench of this Tribunal, challenging the revision of pay scale to his detriment. The OA was allowed through order dated 06.03.2009. The respondents filed a Special Civil Application No.1628 of 2010, before the Gujarat High Court. The Application was dismissed on 23.07.1995. It is stated that Shri Bhanti was extended the benefit of revised pay scale.

3. This OA is filed with a prayer to direct the respondents to extend the benefit of revised pay scale of Rs.14300-18300 for the post of Director and Rs.12000-16500 for the post of Deputy Director. A prayer is also made for quashing the order dated 02.06.1999, through which the benefit of revised pay scales was withdrawn. The applicants contend that withdrawal of the revised pay scale that was extended to them, is contrary to law and in violation of principles of natural justice. It is also stated that the action of the respondents is violative of Article 14 *inasmuch* as the similarly situated employee, namely, Shri R.K. Bhanti was extended the benefit, whereas it was denied to them.

4. Respondents filed counter affidavit opposing the OA. An objection is raised as to the limitation. It is also stated that the applicants were informed about their dis-entitlement since they did not pursue the remedies, as Shri Bhanti did. It is further stated that through an order dated 13.12.2016, the cases of the applicants were considered and rejected by citing reasons.

5. We heard Ms. Ankita Patnaik, learned counsel for applicant and Shri Satish Kumar, learned counsel for respondents.

6. It is not in dispute that the pay scales of Deputy Director and Director in the Department were revised through an order dated 22.10.1997. In case the extension of the benefit was defective or was contrary to any provision of law, it was always open to the respondents to withdraw the same, duly issuing the notice and stating the reasons. However, straightway, an order was passed on 02.06.1999, withdrawing the benefit. Ever since then, the issue was being agitated, in the one form or the other.

7. Initially the plea of the applicants was rejected through an order dated 27.04.2009, which reads as under :-

“The proposal for upgradation of the pay scale of Deputy Directors and Directors was sent to the Ministry of Finance through the Ministry of Shipping but the same has not been acceded to with the remarks that only normal replacement scales as per the recommendations of the 6<sup>th</sup> Central Pay Commission may be granted.”

8. The applicants made a representation, citing the instance of one Shri R.K. Bhanti. Reacting to the same, the respondents replied as under :-

“Reference your letter No.VSP(KKd)/1(10/2002-Estt. Dated 13<sup>th</sup> May, 2009 on the subject noted above.

In this connection it may be intimated that the case of Shri R.K. Bhanti, Ex. Director of this Directorate regarding up-gradation of pay is pending for a decision. No action can be taken on your representation.”

9. From this, it becomes clear that final decision in the case of the applicants was not taken on account of the pendency of the matter pertaining to Shri R.K. Bhanti.

10. The applicants have been agitating the issue right from the beginning, almost on par with Shri R.K. Bhanti. The only difference is that Shri R.K. Bhanti was filing successive OAs, whereas the applicants were making representations on the same lines.

11. Ultimately, Shri R.K. Bhanti was successful with the allowing of OA No.304/2007 and dismissal of the SCA filed by the respondents against the order in the OA. The attention of the respondents was drawn to the issue, once the case of Shri R.K. Bhanti has assumed finality. A typical representation made by one of the applicants, consequent upon the extension of the benefit to Shri R.K. Bhanti, reads as under:-

“Sir,

With due respect I submit the following for your kind consideration and favourable action please.

1. I joined as Assistant Executive Engineer (C) as a Group 'A' entry on 18.02.1985, promoted to the post of Deputy Director on 27<sup>th</sup> April, 1995, Director on 25<sup>th</sup> July, 2001, Deputy Director General on 19.11.2007 & Director General on 31.12.2010 (AN) respectively and retired on 30.11.2015.

2. Consequent upon the implementation of 5<sup>th</sup> CPC recommendations, anomaly has arisen in the pay scales of Deputy Director &

Directors of DGLL as the pay has been fixed in the lower grade of pay.

3. To address this anomaly Shri R.K. Bhanti, Director (Retd) approached the Hon'ble CAT Ahmedabad Bench vide OA No.304/2007. The Hon'ble CAT Ahmedabad vide judgment dated 06.03.2009 directed to place Shri R.K. Bhanti as Deputy Director in the scale of Rs.12000-16500 and as Director in the scale of pay of Rs.14300-18300 w.e.f. 01.01.1996 and 03.10.2000 respectively. The judgment of the CAT was challenged by the Union of India in the Hon'ble High Court of Gujarat vide appeal No.SCA 1628/2010. The verdict of the Hon'ble CAT was upheld, by the Hon'ble High Court, Ahmedabad in favour of RK Bhanti by dismissing the appeal No.SCA 1628/2010 filed by the Union of India.

4. Order of the Hon'ble CAT has been implemented by Ministry of Shipping, Government of India vide their No.C-18018/18/2015-SL dated 17.05.2016.

5. Undersigned has retired as Director General and have worked as Director and Deputy Director in the same organisation and performed similar duties as Shri R.K. Bhanti, Director (Retd).

6. It is therefore requested that I may also be granted same scale of pay as Deputy Director and Director, as granted to Shri R.K. Bhanti.”

12. On receiving representation, the Ministry sought the legal opinion. In the legal opinion, the issue as to whether the applicants can be treated as 'fence-

sitters', as observed by the Hon'ble Supreme Court in ***State of U.P. Vs. Arvind Kumar Srivastava***, Civil Appeal No.9849/2014, was examined. Ultimately, it was observed as under :-

“11. In terms of law as above noted (supra), *normally* when a particular set of employees is given relief/benefit by Court, all other identically similarly situated persons should be treated alike and not doing so would be discriminatory and violative of Article 14 of the Constitution of India. In such situation, obligation is cast upon authorities themselves to extend the benefit. However, in these cases, it is also to be seen whether their cases are covered under exceptions and whether their cases are distinguishable in any other manner.

12. In the instant matter, litigation on higher pay scales was initiated by one applicant in the year 1994 and has been implemented in 2016 in respect of applicant. There is nothing on record to indicate that any other official who are claiming to be similarly placed have ever approached any court of law at any stage *except* (applicant in OA 61 of 2011) (Ahm Bench) and applicant (in OA No.2509/2016) (PB ND Bench) who can be said to be vigilant as had continuously represented for parity in respect of applicant and thus covered under normal rule and to be treated alike judgment of CAT in Bhanti case.”

13. From this, it becomes clear that a specific reference is made to the present OA and it was observed that the

applicants therein were vigilant and were continuously representing for parity with Shri R.K. Bhanti. However, an office order dated 13.12.2016, was passed taking exactly the opposite view. The opinion expressed by the department of law was totally ignored.

14. The record clearly discloses that the applicants stand on the same footing as does Shri R.K. Bhanti, be it in the context of the post held by them or pay scales. There is no justification on the part of the respondents to deny such benefit to the applicants herein, particularly, when they were asked to wait till the case of Shri R.K. Bhanti is decided finally.

15. Therefore, we allow the OA and direct the respondents to extend the benefit of revised pay scale to the applicants, as was done in the case of Shri R.K. Bhanti, within three months, from the date of receipt of a certified copy of this order. Pending MAs, if any, stand disposed of. There shall be no order as to costs.

(Aradhana Johri)  
Member (A)

(Justice L. Narasimha Reddy)  
Chairman

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