

CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

...

i) OA No.290/00139/2013,
ii) OA No.290/00140/2013 &
iii)OA No.290/00163/2013

Pronounced on : 02.09.2019
(Reserved on : 20.08.2019

...

CORAM: **HON'BLE SMT. HINA P. SHAH, MEMBER (J)**
HON'BLE SMT. ARCHANA NIGAM, MEMBER (A)

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i)OA No.290/00139/2013

1. Chhotu Ram S/o Sh. Durga Ram, aged 50 years.
2. Desh Bhushan Singh S/o Sh. Hardayal Singh, aged about 53 years.
3. Prema Ram S/o Sh. Ramoo Ram, aged about 48 years.
4. Khiya Ram S/o Sh. Basti Ram, aged 50 years.
5. Bhanwar Lal S/o Sh. Moti Ram, aged about 51 years.
6. Bhanwar Lal S/o Sh. Anda Ram, aged 52 years.
7. Jabar Singh S/o Sh. Kishore Singh, aged 40 years.
8. Govind Singh S/o Sh. Gulab Singh, aged 52 years.
9. Bhagwan Singh S/o Sh. Man Singh, aged 51 years.
10. Om Singh S/o Sh. Jeewan Singh, aged 54 years.
11. Gopa Ram S/o Sh. Mangi Lal, aged 56 years.
12. Ramu Ram S/o Sh. Mangla Ram, aged 49 years.
13. Ram Deen S/o Sh. Uda Ram, aged 52 years.
14. Jaswant Singh S/o Sh. Saitan Singh, aged 54 years.
15. Vinod Kumar S/o Sh. Sumer Singh, aged 50 years.
16. Bana Ram S/o Sh. Rugha Ram, aged 53 years.
17. Raja Ram S/o Sh. Tikku Ram, aged 51 years.
18. Hari Ram S/o Sh. Thana Ram, aged 49 years.
19. Durga Ram S/o Sh. Bhura Ram, aged 50 years.
20. Roda Ram S/o Sh. Basti Ram, aged 48 years.
21. Bal Singh S/o Sh. Inder Singh, aged 53 years.

22. Uga Ram S/o Sh. Jeewan Ram, aged 50 years.
23. Chhakia S/o Sh. Uda Ram, aged 54 years.
24. Govind Singh S/o Sh. Narain Singh, aged 53 years.
25. Om Prakash S/o Sh. Mohan Lal, aged 55 years.
26. Dharma Ram S/o Sh. Gheesa Ram, aged about 53 years.

All applicants are working on the post of Majdoor under Commandant No.19, Field Ammunition Depot Pin 909717 C/o 56 APO.

...APPLICANTS

BY ADVOCATE : Mr. Nishant Motsara.

VERSUS

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Director General of Ordnance Services, Master General of Ord. Branch (OS & 8C) Integrated HQ of MOD (Army) New Delhi-110011.
3. Commandant, 19 Field Ammunition Depot (FAD) Pin 909719, C/o 56 APO.
4. Sh. Heera Lal Joshi UDC S/o Sh. Amba Lal Joshi C/o Commandant 19 FAD Pin 909719 C/o 56 APO.

RESPONDENTS

BY ADVOCATE: Mr. B.L. Bishnoi, counsel for R1 to R3.
None for R4.

ii)OA No.290/00140/2013

1. Sawai Singh S/o Sh. Labu Singh, aged 53 years.
2. Harji Ram S/o Sh. Kumbha Ram, aged about 52 years.
3. Kamal Prasad S/o Sh. Rama Dhar, aged 51 years.
4. Jagdish S/o Sh. Kewal Ram, aged about 52 years.
5. Peera Ram S/o Sh. Basti Ram, aged 53 years.
6. Hanuman Ram S/o Sh. Budha Ram, aged 53 years.
7. Kalu Singh S/o Sh. Karan Singh, aged 53 years.
8. Badri Ram S/o Sh. Bhoma Ram, aged 52 years.
9. Gokul Ram S/o Sh. Poona Ram, aged 52 years.

10. Chhotu Singh S/o Sh. Heer Singh, aged 51 years.
11. Shiv Kumar S/o Sh. Paltu Das, aged 51 years.
12. Ram Chander S/o Sh. Kishna Ram, aged 53 years.
13. Laxman Prajapat S/o Sh. Mohan Lal, aged 51 years.
14. Sumer Singh S/o Sh. Vijai Singh, aged 52 years.
15. Hukam Snigh S/o Sh. Bhopal Singh, aged 50 years.
16. Gopal Ram S/o Sh. Baksha Ram, aged 52 years.
17. Ram Lal S/o Sh. Jeta Ram, aged 52 years.
18. Sewa Ram S/o Sh. Gobar Ram, aged 49 years.
19. Lal Singh S/o Sh. Moti Singh, aged 52 years.
20. Prem Singh S/o Sh. Chain Singh, aged 51 years.
21. Hari Ram S/o Sh. Bhera Ram, aged 50 years.
22. Sanga Ram S/o Sh. Srinath Ram, aged 59 years.
23. Amra Ram S/o Sh. Rugha Ram, aged 51 years.
24. Jai Narain S/o Sh. Mangla Ram, aged 48 years.
25. Chena Ram S/o Sh. Rupa Ram, aged about 52 years.
26. Pukh Raj S/o Sh. Mnohar Ji, aged about 52 years.

All applicants are working on the post of Majdoor under Commandant No.19, Field Ammunition Depot, C/o 56 APO Pin 909717.

...APPLICANTS

BY ADVOCATE : Mr. Nishant Motsara.

VERSUS

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Director General of Ordnance Services, Master General of Ord. Branch (OS 8C) Integrated HQ of MOD (Army) New Delhi-110011.
3. Commandant, 19 Field Ammunition Depot (FAD) Pin 909719, C/o 56 APO.
4. Sh. Heera Lal Joshi UDC S/o Sh. Amba Lal Joshi C/o Commandant 19 FAD Pin 909719 C/o 56 APO.

RESPONDENTS

BY ADVOCATE: Mr. B.L. Bishnoi, counsel for R1 to R3.
None for R4.

iii)OA No.290/00163/2013

1. Rameshwar Lal S/o Sh. Tikam Dass, aged 54 years.
2. Madhu Ram S/o Sh. Narain Ji, aged about 50 years.
3. Ananda Ram S/o Sh. Uda Ram, aged about 52 years.
4. Lala Ram S/o Sh. Srii Ram, aged 52 years.
5. Pukh Raj S/o Sh. Babu Lal, aged about 52 years.
6. Hari Ram S/o Sh. Sukha Ram, aged 53 years.
7. Kuna Ram S/o Sh. Narain Ram, aged 48 years.
8. Deepa Ram S/o Sh. Baksha Ram, aged 52 years.
9. Jiya Ram S/o Sh. Ranjeet Ram, aged 51 years.

All applicants are working on the post of Majdoor under Commandant
No. 19, Field Ammunition Depot Pin 909719 C/o 56 APO.

...APPLICANTS

BY ADVOCATE : Mr. Nishant Motsara.

VERSUS

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Director General of Ordnance Services, Master General of Ord. Branch (OS 8C) Integrated HQ of MOD (Army) New Delhi-110011.
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4. Sh. Heera Lal Joshi UDC S/o Sh. Amba Lal Joshi C/o Commandant 19 FAD Pin 909719 C/o 56 APO.

RESPONDENTS

BY ADVOCATE: Mr. B.L. Bishnoi, counsel for R1 to R3.
None for R4.

ORDER

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Hon'ble Smt. Archana Nigam, Member (A):-

1. These three Original Applications have been filed for the similar issue and also praying for similar reliefs. Thus, a common order is being passed for these three OAs. For the purpose of reference, we are taking the facts of OA No.290/00139/2013 titled Chhotu Ram & Ors. Vs. UOI & Ors.

2. The applicants, in this Original Application, have prayed for the following reliefs:

- "8(i) By an appropriate writ order or direction respondents may be directed to re-fix the pay of applicants on grant of 1st ACP under clause (b) of option form i.e. on the basis of the provision of FR 22 (1) a (1) on the date of accrual of next increment in the scale of pay of the lower post with all consequential benefits including arrears of pay and allowances along with interest @12% per annum.
- (ii) By an order or direction if any order is passed against the applicants, the same may be declared illegal and be quashed and set aside as if the same was not issued against the applicants.
- (iii) By an order or direction respondents may be directed to produce the find out the truth before the Hon'ble Court.
- (iv) By an order or direction applicants may be allowed to file joint application.
- (v) Any other relief which is found just and proper be passed in favor of the applicants."

3. The brief facts, as narrated in OA No.290/00139/2013, are that all the applicants were appointed on the post of Mazdoor from February to April 1984 and few were appointed in June 1983 were entitled for 1st ACP with effect from 09.08.1999 though they have completed 12 years of service in 1995 and 1996 itself. While granting the up gradation of 1st ACP with effect from 09.08.1999 in the pay scale of Rs.3050-4590/-, respondents took option from all the applicants which was in English. Since most of the applicants are illiterate and do not understand the

implication of option and the option certificate which is in English. Applicants were simply asked to put their signatures on option form and respondent no.4 told them that whichever clause is beneficial to them the same will be applied to you. Under the bonafide belief all the applicants put their signatures simply without putting any tick mark on the two clauses of the option i.e.

- (a) Pay to be fixed in the higher grade on the basis of FR 22(1) a (1) straight away without any further revision on accrual of increment in the pay scale of lower post.
- (b) Pay to be fixed initially in the manner as provided under FR 22 (1) a (1) which may be re-fixed on the basis of FR 2 (1) a (1) on date of accrual of next increment in the pay scale of lower post.

Respondent no.4 instead of putting tick on clause (b) put tick on clause (a) malafidely and intentionally just to deprive the benefit of increment in the lower post first and then to fix in the higher grade. All the applicants who got 1st ACP with effect from 09.08.1999 are from Mazdoor category which is the lowest category of employees in the respondent department.

4. It is further stated that the main intention of respondent no.4 was to deprive the benefit of more salary being drawn by all the applicants who are Mazdoor and illiterate persons after grant of 1st ACP in the pay scale of Rs.3050-4590/- which is the pay scale of Group 'C' clerical staff. As per will and wish of respondent no.4 on grant of 1st ACP pay of applicants were straight away fixed as per clause (a) without first fixing their pay after grant of 1st increment in the pay scale of lower post. The applicants raised their grievances before the respondents through the association, but no action was taken in the matter. The Association under Ministry of Defence took up the matter before respondent no.4 vide letter dated 09.02.2009 (Annexure A1) requesting

to consider and give one more opportunity of option to low paid employees.

5. It is also stated by the applicants that MOD had desired total financial implication of the proposal be submitted to process the case further and requested to calculate financial implication of each individual in case all the effected 212 IPs are allowed to revise their option for pay fixation by 15.01.2010 vide letter dated 21.12.2009 (Annexure A2). Respondent No.3 vide their letter dated 09.03.2010 (Annexure A3) informed respondent no.2 that for the 212 individual affected, the difference of re-fixation on exercising of option from the date of increment between January, 2000 to July, 2000 worked out till July, 2005 is negligible. Thereafter, respondent no.2 vide letter dated 23.03.2010 (Annexure A4) informed respondent no.3 that Ministry has agreed to consider the case as a special case. Respondent no.3 vide letter dated 23.04.2010 (Annexure A6) appraised respondent no.2 about the revision of option for fixation of pay and requested to seek CFA sanction in respect of all civilian employees to avoid legal complication at later stage. Thereafter since nothing was done, applicants vide their letter dated 03.08.2010 (Annexure A7) requested respondents to appraise the position of their pay fixation. No reply was received from respondent no.2 applicants wrote letter dated 05.01.2011, 06.06.2011, 07.11.2011, 03.04.2012 and 05.10.2012 (Annexures A9 to A13) respectively, but of no avail.

6. It is further added that after implementation of 6th CPC under Rule 10 of CCS (RP) Rules, 2008, there was a provision that the 1st increment after fixation of pay on 01.01.2006 in revised pay structure will be granted increment on 01.07.2006 for those employees for whom

the date of next increment was between 01.07.2006 to 01.01.2007. The staff represented this issue that these employees who were due to get their annual increment between February to June, 2006 may be granted one increment on 01.01.2006 in the pre-revised scale and thereafter next increment with effect from 01.07.2006. The Govt. agreed to this vide OM dated 19.03.2012 (Annexure A14) looking to the hardship of the employees then why the revised option should not be allowed to the applicants, who are deprived of the benefit of correct fixation which was beneficial to them is not understood. Since nothing was heard from the respondents, applicants vide their representation dated 01.03.2013 (Annexure A15) again represented to the respondents and requested to make correct fixation of pay while granting 1st ACP as per option (b) of their option form.

7. The Govt. of India vide OM dated 03.01.2013 (Annexure A16) allowed re-exercise of option in the light of OM dated 19.03.2012 referred above as on time major then it is not understand as to why respondents are not allowing to re-exercise option for the applicants who are illiterate and low paid employees. So far nothing has been heard to re-exercise of option and re-fixation of pay of the applicants while granting 1st ACP. Aggrieved of the action of the respondents, applicants have no other option than to approach this Tribunal for redressal of their grievances. Hence this OA.

8. Per contra In the written statement filed on behalf of the respondents, it has been stated that the Mazdoors were explained the implications of ACP Scheme as well as the requirement of submission of option i.e. (a) pay to be fixed in the higher grade on the basis of FR 22 (1) a (1) straight away without any further revision on acquiring of

increment in the pay scale of lower post or (b) pay to be fixed initially in the manner as provided under FR 22(1)a(1) which may be fixed on the basis of provisions of FR 22 (1) a (1) on the date of accrual of next increment in the scale of pay lower post. As all the Mazdoors understood and well conversant about the provisions as explained to them as mentioned above, no one applicant asked for Hindi version of option forms. Blank options form in respect of affected 442 Mazdoor were dispatched to each group of this depot, where, the Mazdoors are working in separate groups to complete the option forms at their discretion. The option forms duly signed by the person duly indicating option has been deposited by Group time-keepers to the particular clerk dealing with the Groups Pay & Allowances. Respondent no.4 has never interfered with the option of the Mazdoors as the option forms were filled and signed by the individual person concerned at their Group, where they worked.

9. It is further stated that the pay fixation proforma were prepared by a team of about 04 clerks as per option shown in the option form, duly counter signed by the Personnel Officer and got approved accordingly from audit authority. The allegation that the respondent no.4 has alerted/filled the option of all the applicants, that is also raised after a period of about 10 years in support of the case, is a false allegation and requires to be rejected. The allegation as mentioned is not sustainable on the ground that a Civil Clerk who works in administrative set up, has no power to work independently or at his will and wish. He is totally under control of a chain of Command of Officers and can work only as per direction of superiors and prevalent policies. and every correspondence is under scrutiny and under signature of respective officers. On a representation from Mazdoors of this depot, a

case again taken up with Army HQ for considering revision of their earlier option vide letter dated 03.02.2009, financial implication in respect of all concerned Mazdoors were also submitted to Army HQ duly audited by LAO (B) Jodhpur, vide letter dated 09.03.2010.

10. It is also further stated that a prolonged correspondence Army HQ informed vide letter dated 09.08.2010 that 'the case for revision of option after expiry of prescribed time limit has been examined in consultation with Ministry of Defence'. In this connection, it is intimated that Ministry of Defence have not accepted our proposal stating that as per the orders on the subject, an option once exercised is final unless, there are any unforeseen developments or change of rules. The present case does not meet this stipulation. In view of the above it is intimated that revision of option at a belated stage, viz., after expiry of stipulated time limit, is not permissible under the rules and, therefore, not accepted by the MOD. The individual person may be informed accordingly. Moreover, all individual persons have been informed vide office order dated 27.08.2010 addressed to all Groups about the decision given by Ministry of Defence and a notice also pasted in depot on notice Board and all concerned were informed accordingly. As per order dated 19.03.2012, one increment can be granted to the persons, whose annual increment is due between the period of Feb, 2006 and June, 2006 in the old pay and then fix pay the revised pay as per 6th CPC only, whereas the applicants' increment were not due on said period, hence, not eligible the applicants to get any relief from this Court.

11. It is further added that the revised option as per GOI, Ministry of Finance letter dated 03.01.2013 is only applicable to those persons,

who eligible for an additional increment, if their increment of 6th CPC viz., to appointment for revised pay as per RPR 08 w.e.f. 01.01.2006 or after availing of increment due in 2006, whereas, the applicants were not eligible for said additional increment as their increment were beyond that period. Hence the applicants are not entitled to get any interim relief from the Tribunal, therefore, the OA is liable to be dismissed.

12. Heard Shri Nishant Motsara, learned counsel for the applicants and Shri B.L. Bishnoi, learned counsel for respondents no.1 to 3 and perused the material available on record.

13. Learned counsel for the applicants Shri Motsara reiterating the facts stated in the pleadings highlighted the position that as per the rules the respondent department had sought for options from the applicants. He also drew our attention to the detailed representation made by the applicants at Annexure A15 regarding the option for fixation. Counsel for the applicant repeatedly stated that the applicants were lowly paid Mazdoors and are illiterate and therefore did not understand the financial implications of the option form which was also stated to be in English, language with which the Mazdoors were not familiar. Learned counsel, concluded his pleadings with the submission that in view of this the Mazdoors should be given one more opportunity to exercise the option afresh as relief sought in this OA.

14. Per contra, counsel for the respondents drew our attention to the CAT order dated 25.01.2017 passed by this Tribunal in OA No.139/2013 wherein the OA was dismissed as being barred by limitation. It had been stated in that order that "even on merits also, once the applicants

had given their option with their eyes wide open, they cannot be now turn around and claim that it should be changed. Ignorance of law is not an excuse even in service jurisprudence". Learned counsel also drew our attention to the facts that no representation has been made by the applicants after 2010.

15. The Hon'ble High Court of Rajasthan in DB Civil Writ Petition No.7641/2017 connected with DB Civil Writ Petition No.7139/2017 and DB Civil Writ Petition No.7427/2017, vide their order dated 11.01.2018 have disposed off the Petitions setting aside the impugned order of the Tribunal dated 25.01.2017. The OAs have been restored and remanded back to the Tribunal and the same are to be decided on merits. While doing so the Hon'ble High Court has opined as below:-

"3. Relevant facts are that the ACP Scheme was introduced by the respondents on 09.08.1999. Beneficiaries of the schemes had to submit an option whether they desire pay fixation as per FR 22(1) (A)(i) or FR 22(1)(A)(ii). Whereas option A would give higher grade immediately. Option B would have given them higher grade on the date of accrual of next first increment. The writ petitioners who are Mazdoors did not understand that if they opted for option B; though from a later date but for all times their pay would be more. As claimed by them they being illiterate and not being made aware of the consequences of the choice of option exercised, they filled up the form and opted for option A. They started getting benefit of ACP in terms off option A. The benefit of ACP Scheme was accorded in the year 2003. At that stage the Mazdoors realized that option B would have given them more benefits. They made a representation to be permitted to re-exercise their option. The department favourably considered the same, evidenced by Annex.5, being a letter dated 10th July 2006.

4. Per force the concurrence of finance department has to be obtained. Issue lingered on. Annexure 8 reveals that as late as on 18th March, 2009 the department was actively considering the request of Mazdoors. Annex.9, being a letter dated 23rd March, 2010, also shows that Ministry had agreed to consider the case as special case. It is only on 9th August, 2010 that the Ministry of Defence informed that option cannot be permitted to be revised. Pertaining to government servants the issue of placement in the revised pay scale with reference to the due date of next increment was considered and on 19th march, 2012 (Annex.12) the Ministry of Finance, in relaxation as stipulation in Rules, permitted the benefit to be granted to the civil servants.

5. We have noted facts to bring home the point that these have been overlooked by the Tribunal while dismissing the original applications on account of delay and laches and being barred by limitation. Whilst it may be true that representations to the department after claim is rejected will not extend the period of limitation but where a representation is not rejected and is being actively considered, for purpose of limitation, the date when the representation is rejected will be the date when cause of action accrues."

16. To adjudicate on this matter on merits as directed by the Hon'ble High Court it would be appropriate to assess whether the Mazdoors were given the opportunity to exercise their option in the matter of re-fixation and whether it can be said that principles of Fair Procedure and Natural Justice were duly followed.

17. It is observed that in the written statement filed on behalf of the respondents, it has been stated that the Mazdoors were explained the implications of ACP Scheme as well as the requirement of submission of option i.e. (a) pay to be fixed in the higher grade on the basis of FR 22 (1) a (1) straight away without any further revision on acquiring of increment in the pay scale of lower post or (b) pay to be fixed initially in the manner as provided under FR 22(1)a(1) which may be fixed on the basis of provisions of FR 22 (1) a (1) on the date of accrual of next increment in the scale of pay lower post. The Mazdoors understood the requirements of the Form and were conversant about the provisions as explained to them as mentioned above It is stated that none of the applicants asked for Hindi version of option forms.

18. It would be amply clear that the respondent department has taken adequate care to assist the lowly paid applicants in exercising the option form after a thorough understanding. To ensure the correctness respondent department had also assisted the applicants to fill the pay

fixation proforma with the assistance of a team of four office clerks and then the duly filled form was countersigned by the Personnel Officer. It is also mentioned that once filled up the option form were also audited by the Audit Authority.

19. The issue to be decided is whether the Representation of the applicants were given due consideration by the Respondents. It is the case of the applicants that the Mazdoors (Applicants) should be given another opportunity for exercising their option for re-fixation of their pay, in view of the fact that they are low paid employees and are illiterate. It is seen that in fact, the respondent department has taken up the matter at the highest levels for compassionate view in the matter of allowing re-fixation of their pay.

20. In this context, it would be worthwhile to observe that the respondent department through the Directorate General of Ordnance Services had protracted correspondence in the matter. Vide their letter no.A/24331/19FAD/Misc./OS-9 dated 21.12.2009, Directorate General of Ordnance Services have sought from the Commandant 19 FAD, the details for taking up the matter with Ministry of Defence. Vide letter no.2558/A/96/EST(IP), dated 09.03.2010, 19 FAD have responded and provided the calculations of financial implication as asked for duly audited by the Audit Authorities. Vide letter No. A/24331/19/FAD/Misc/OS-8C(ii), dated 23.03.2010, have again addressed 19 FAD seeking further clarifications regarding the number of applicants presently on the strength of 19 FAD. Then vide letter dated 06.04.2010, the Commandant 19 FAD have responded for further action. Again on 23.04.2010 further clarifications were provided by

respondents to enable the Higher Authorities to take up the matter further with the Ministry of Defense and DOPT.

21. From the protracted correspondence between the applicants parent organization viz.19 FAD and the highest levels of decision making in the Ministry of Defense, Ministry of Finance and DOPT, it is amply clear that the respondents have left no stone unturned to facilitate the proper consideration of the Representation for revision of options as provided for at Annexure-III to FR 22C – Checklist for cases for revised option. Thus, it would be appropriate to state that requirement of fair procedure have been duly complied with by the respondent department.

22. In this connection, the following letters are relevant for just decision of the original applications, which are as under:-

- (a) Copy of 19 FAD letter dated 03.02.2009 taken with IHQ of MOD (Army).
- (b) Copy of IHQ of MOD (Army) letter dated 19.02.2009.
- (c) Copy of 19 FAD letter dated 18.03.2009 addressed to IHQ of MOD (Army).
- (d) Copy of IHQ of MOD (Army) letter dated 25.03.2009.
- (e) Copy of 19 FAD letter dated 13.04.2009
- (f) Copy of IHQ of MOD (Army) letter dated 24.04.2009.
- (g) Copy of 19 FAD letter dated 06.05.2009.
- (h) Copy of IHQ of MOD (Army) letter dated 25.06.2009.
- (i) Copy of 19 FAD letter dated 23.07.2009.
- (j) Copy of IHQ of MOD (Army) letter dated 21.12.2010
- (k) Copy of 19 FAD letter dated 09.03.2010
- (l) Copy of IHQ of MOD (Army) letter dated 23.03.2010
- (m) Copy of 19 FAD letter dated 23.04.2010.
- (n) Copy of IHQ of MOD (Army) letter dated 09.08.2010
- (o) Copy of information dated 26.08.2010 pasted in depot information Board.
- (p) Copy of ION dated 27.08.2010 addressed to all groups.

23. After a prolonged correspondence and due deliberations at the Highest levels in the Ministry of Defence, Army HQ informed vide letter dated 09.08.2010 that "the case for revision of option after expiry of prescribed time limit has been examined in consultation with Ministry of Defense. After detailed examination, the Govt. at highest levels has found that the proposal of the applicants cannot be acceded to for the following reasons:

i) Rules do not permit the option once exercised to be changed unless there are any unforeseen developments or change of rules.

ii) The revision at such a belated stage, after expiry of stipulated time limit is also not permissible under the rules.

24. In this Connection, Respondents intimated that Ministry of Defence have not accepted our proposal stating that as per the orders on the subject, an option once exercised is final unless, there as any unforeseen developments or change of rules. The present case does not meet this criteria as stipulated. In view of the above, it is intimated that revision of option at belated stage, viz., after expiry of stipulated time limit, is not permissible under the rules and, therefore, not accepted by the MOD. The individual person may be informed accordingly.

25. It is observed that in compliance of the decision of the Ministry of Defense, all individual persons have been informed vide office order dated 27.08.2010 addressed to all Groups about the decision given by Ministry of Defence and a notice was also pasted in depot on notice Board and all concerned were informed accordingly.

26. It is amply clear from the facts stated that all individual persons have been informed vide office order dated 27.08.2010 addressed to all groups about the decision given by the Ministry of Defence and a notice has also been pasted in the FAD on Notice Board.

27. As regards order dated 19.03.2012, the submission of Respondents is that one increment can be granted to the persons, whose annual increment is due between the period of Feb, 2006 and June, 2006 in the old pay and then fix pay the revised pay as per 6th CPC only, whereas for these applicants increment were not due on said period; hence, they were not eligible the applicants to get any relief from this Court.

28. As directed by the Hon'ble High Court, the matter has been examined on merits as above. This has been done by a review of the submissions made in terms of the applicable rules, the manner of implementation of Rules in the case of the applicants and granting of fair opportunities to make the option beneficial to the Applicant keeping in mind that Applicants being Mazdoors are both illiterate and low paid employees.

29. Having considered the merits and on the Benchmarks of Transparency and Fair procedure, we are of the opinion that fair procedure as well as transparency has been maintained in the entire exercise. It would therefore be incorrect to arrive at a conclusion that the action of the respondents was unjust, arbitrary or discriminatory.

30. In view of the discussions made hereinabove, it is clear that there is no merit in the present OAs and the same deserve to be dismissed. Accordingly, OAs No.290/00139/2013, 290/00140/2013 and 290/00163/2013 are dismissed. No order as to costs.

(ARCHANA NIGAM)
MEMBER (A)

(HINA P. SHAH)
MEMBER (J)

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