

(2) 7  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 926 of 2003

New Delhi, this the 19th day of May, 2003

HON'BLE SHRI JUSTICE U.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Vijay Kumar s/o Shri Chhail Bihari (MES 366558): Proof Reader;
2. Dibakar Naskar s/o Sh. Dharendra Nath Naskar (MES 366568); Mono Caster;
3. Banwari Lal s/o Sh. Kishan Lal (MES 366565) Machine Minder;
4. Satish Kumar (MES 375321) Book Binder

All at 54, Printing Section, MI 16, Engineers Army Headquarters, West Block-3, R.K. Puram, New Delhi

5. Sanjeev Shankar Saxena (MES 375320) Book Binder at 56, Printing Section, S.D.IV. Army HQ, New Delhi-11

.....Applicants

(By Advocate : Shri G.S. Gupta)

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi.
2. The Engineer-in-Chief, Kashmir House, New Delhi.
3. Garrison Engineer (MES), Rao Tula Ram Marg, Delhi Cantt.-110010.
4. Chief Engineer, Delhi Zone, Delhi Cantt, Delhi-110010.

.....Respondents

(By Advocate : Shri R.P. Aggarwal)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Heard S/Shri G.S. Gupta and R.P. Aggarwal, learned counsel for the applicant and the respondents.

2. All the five applicants in this OA are civilian employees working in Printing Section of MES attached to Directorate of Military

(2)

Intelligence, Ministry of Defence. Three of them have been working since 1970s and two others from 1996. Applicant No.1 is a Proof Reader, No.2 a Mono Caster, No.3 a Machine Minder and Nos. 4 & 5 are Book Binders. All the applicants are continuing in the same post wherein they were appointed. No specific recommendations had been made by the 5th Central Pay Commission (CPC), with respect to the posts they were holding, which was in the scale of Rs. Rs.1200-1800/- (in the case of applicant No.1) and Rs. 950-1500/- (in the cases of others). Still keeping in mind parity with analogous posts in Navy, the authorities placed the applicants in the replacement scales of Rs.4500-7000/- and Rs.4000-6000/- <sup>respectively</sup> and also granted them two increments. However, on the basis of the objection by the local audit, stating that there has been no specific notification from the competent authority permitting the grant of the above scale to the applicants, their increments were stopped since 1997, and they were permitted to draw only provisional pay without any further increment. They were also denied the benefits of Assured Career Progression Scheme. Repeated representations filed by them between October, 98 and January 01 did not yield any result, promoting them to file OA-1116/2002 in the Tribunal. In pursuance of the orders dated 6.5.2002 passed by the Tribunal to the respondents to consider and take action on the representations filed by the applicants, the latter, vide their order dated 21.8.2002, fixed the applicants' pay in the lower scale of Rs.4000-6000/- for the applicant No.1 and

(3)

Rs. 3050-4590/- for others and also granted them ACP benefits in the next scales. During the consideration of the MA filed by the respondents for extension of time to implement the Tribunal's order, the applicants by mistake, conceded that the 'necessary orders' have been passed (though the requisite notification has not yet been issued), which resulted in the MA being dismissed as infructuous. This OA has thereafter been filed challenging the non-issuance of the requisite notification.

3. Grounds raised in the OA are that:

- i) in the absence of issue of notification by the Govt., the organization where they work (MES) could not grant them the correct replacement scale of pay;
- ii) failure of the Pay Commission to grant them due analogous pay scales was irregular;
- iii) those with entry qualifications similar to those of applicants have been granted proper revised scales of pay;
- iv) respondent Nos. 1 & 2 have acted in violation of the Tribunal's instructions and had not discharged their duties properly;
- v) Government's inaction in denying them the appropriate replacement scale of Rs. 4500-7000/- and Rs. 4000-6000/- was irregular; and

m

vi) denial of the principle of parity of pay for parity of posts / responsibilities and qualifications was improper.

4. In the above circumstances, the applicants deserved to be placed in the revised pay scales of Rs. 4500-7000 at 2<sup>nd</sup> 4000-6000/- w.e.f. 1.1.1996 with consequential reliefs, including higher ACP benefits in the next higher scale, is the plea reiterated by Shri G.S.Gupta, learned counsel for the applicants.

5. Rebutting the pleas by the applicants, it is pointed out by the respondents that the applicants are the printing staff of MES for whom no specific revised scale of pay or recommendation was indicated by the 5th Central Pay Commission. Therefore, they were only correctly entitled for being granted the normal replacement scales of Rs. 4000-6000/- and Rs. 3050-4590/- which was given to them 1.6.1998, but which was wrongly revised upwards to Rs. 4500-7000/- and Rs. 4000-6000/- without the concurrence of the audit. Audit's objection was on account of the absence of any specific notification permitting the grant of the higher scale. Correspondence was exchanged thereafter between the applicants' organisation and the Controller of Defence Accounts, during the pendency of which the higher scale was wrongly continued to be paid. OAs filed, in between by the applicants seeking the higher scales (OA-274/2002 & OA-1116/2002) were disposed of by the Tribunal, directing the respondents to decide the

applicants representations, which led to the issuance of the impugned orders of 21.8.02. Respondents point out that the applicants being the Printing Staff were only entitled to normal replacement scales in the absence of any specific recommendations. Their scales have been accordingly fixed with attendant increments but as in the meanwhile, they were wrongly placed in the higher scales of Rs. 4500-7000/- and Rs. 4000-6000/- without any notification to support such higher scales. Respondents had to take rectification action and place the applicants in the lower scales of Rs. 4000-6000/- and Rs. 3050-4590/-, respectively. Respondents further point out that higher scale has been given only to the printing staff of Security Printing Press and Bank Note Press under the Ministry of Finance, who are handling 'state of the art printing presses'. The applicants cannot at all seek any parity in pay with those printing staff. OA, in the circumstances, deserved to be dismissed, pleaded the respondents through their learned counsel Shri Aggarwal.

6. We have carefully considered the matter. All the applicants in this OA are Compositors in Printing Press attached to MES and were drawing pay in the scales of Rs. 1200-1800/- (applicant No. 1) and Rs. 950-1500/- (applicant Nos. 2 to 5) and their plea is that they were, after the implementation of the recommendations of the 5th Central Pay Commission, entitled to be paid the higher replacement scale of Rs. 4500-7000/- and Rs. 4000-6000/-, respectively granted to Printing Staff in Navy instead of the scales of Rs. 4000-6000/- and Rs. 3050-4590/- in which

they have been placed by the impugned order. In fact, they had earlier been given the higher replacement scale by the Unit they were working under which was subsequently withdrawn. This arose on account of the audit objection that the Pay Commission had not made any specific recommendations in respect of their cadre and no notification has been issued granting them the higher scale. This is a fact admitted by the applicants themselves, who allege that the Commission had not taken any correct decision in their case. Obviously, they could have been given only the normal replacement scales of Rs. 4000-6000/- and Rs. 3050-4590/-. However, without authority from the competent authority they were placed in the scales of Rs. 4500-7000/- and Rs. 4000-6000/- and were continued to be so paid till it was objected to by the audit leading to the correction. The impugned order has been issued on 21.8.2002, following the decision of the Tribunal in OA-116/2002 filed by a few identically placed individuals, advising the respondents to take appropriate decisions. The decision in this case is to grant the normal revised scales (Rs. 4000-6000/- and Rs. 3050-4590/-) as no specific recommendations has been indicated by the Pay Commission justifying higher replacement scale in respect of applicants post. Respondents have correctly exercised their power while placing the applicants in the scales of Rs. 4000-6000/- and Rs. 3050-4590/-. We also note that the three applicants (1, 2 & 3) who have completed the requisite period have also been granted financial upgradation under ACP in the next grades. The applicants' cases have been properly

of

(7)

taken care of by the respondents nothing remains to be done. Applicants, therefore cannot ask for anything more under law.

7. We are thus convinced that the applicants have not made out any case for our interference. OA fails and is accordingly dismissed. No costs.

8. Operative portion of the order was pronounced in the Court at the conclusion of the oral submissions.

(GOVINDAN S. TAMPI)  
( MEMBER (A))

sunil

Ag  
(V.S. AGGARWAL)  
CHAIRMAN