

**(2013) 10 DEL CK 0202**  
**In the Delhi High Court**  
**Case No : W.P. (C) No. 6297/2013**

Sudhir Kumar Kapoor

APPELLANT

Vs

UOI

RESPONDENT

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**Date of Decision :** 04-10-2013

**Acts Referred:**

**Citation :** (2013) 6 ILR Delhi 4614

**Hon'ble Judges :** Gita Mittal, J;Deepa Sharma, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Gita Mittal, J.—Admit.

Ms. Archana Gaur, Advocate accepts notice of admission on behalf of respondents.

2. The issue raised in the present writ petition has arisen in several petitions already decided. With the consent of parties, the writ petition is taken up for consideration and disposal.

3. The petitioner in the instant writ petition is a promotee officer working as Superintendent BR Grade II with the Border Road Organization. This petition has been filed by the petitioner praying to pay salary in the same pay scale/pay band with grade pay as was paid to Ghan Shyam Vishwakarma pursuant to the decision passed by the Gauhati High Court (Aizawl Bench) in W.P. (C) No. 51/2009.

4. The Border Road Organization implemented the recommendations of the 5th Central Pay Commission with effect from January 1, 1996 and started paying a higher salary to Overseers and Superintendents BR Grade-II who were direct recruits and possessed either a diploma or a degree in the applicable field i.e. Electrical or Mechanical; depending upon the stream. This was denied to promotee officers who joined as Masons, Carpenters etc. and earned promotion. The reason for denying the parity in pay-scale was by drawing a distinction

between Officers holding a diploma or a degree and those not holding a diploma or a degree. This action was held to be discriminatory and was quashed. Mandamus was issued that same scale of pay benefit, as recommended by the Pay Commissions, be accorded to such officers for the reason that the Pay Commissions did not draw any such distinction while making their recommendations.

5. The decision of the Aizawl Bench of the Gauhati High Court was unsuccessfully challenged before the Supreme Court. Qua Ghan Shyam Vishwakarma, the same has been implemented as also many more who filed similar petitions.

6. Despite repeated directions, the respondents are granting benefits only to such persons who approached the court which is legally impermissible.

7. In view of the above, writ petitions have been filed by several other persons claiming the same benefits as have been granted by the Aizawl Bench of the Gauhati High Court aforementioned. The decision in the instant case relates to application of policy decision. This court in several orders including the order dated 17th December, 2012 passed in WP(C) No. 5040/2012, Prabhdial Singh & Ors. v. Union of India & Ors. has specifically directed that the decision has to be implemented in rem. No action has been taken by the respondents and persons as the petitioners are being compelled to approach this court for the same relief.

8. Learned counsel for the petitioner has placed on record also the order dated 31st July, 2013 passed in WP(C) No. 3820/2013, Narendra Kumar & Ors. v. Union of India & Ors. passed by us in the above circumstances.

9. We accordingly allow this writ petition directing that the petitioner working as Superintendent BR Grade II with the Border Road Organization be accorded the benefit of recommendations made by the 5th and 6th Central Pay Commissions as was accorded to Ghan Shyam Vishwakarma.

10. Arrears, if any, would be disbursed within a period of 12 weeks from today.

11. The petitioner shall be entitled to costs which are quantified at Rs. 10,000/-.