

(2022) 09 DEL CK 0129

In the Delhi High Court

Case No : Civil Writ Petition No. 2367 Of 2003

UOI & Ors.

APPELLANT

Vs

J. K. Gohri & Ors.

RESPONDENT

Date of Decision : 21-09-2022

Acts Referred:

Defence Research And Development Organisation Technical Cadre Recruitment Rules, 1995 — Rule 6(4)(a), 65(a), 11

Citation : (2022) 09 DEL CK 0129

Hon'ble Judges : Satish Chandra Sharma, CJ; Subramonium Prasad, J

Bench : Division Bench

Advocate : Ruchir Mishra, Ramneek Mishra, Sanjeev Kumar Saxena, Mansi Verma, Mukesh Tiwari, Prateek Chadha, Vrishank Singania, Rajeev Chauhan, Shilpi Upadhyay, Varun Arora

Judgement

Satish Chandra Sharma, CJ

1. The present petition is arising out of judgment dated 19.09.2021 passed by the Central Administrative Tribunal (Principal Bench), New Delhi in O.A. NO. 87/2000 titled J.K. Gohri and Others v. Union of India.

2. The facts of the case reveal that an Original Application was preferred by J.K. Gohri and 12 others claiming higher pay scale and alleging discrimination in the matter of grant of pay scale vide order dated 20.01.1999. The applicants before the Tribunal prayed for quashment of order dated 20.01.1999; grant of pay scale of Rs.6500-10500 at par with Senior Technical Assistants (STAs); grant of pay scale of Rs.5500-9000 with effect from 01.01.1996; and also a prayer was made that they should be treated as similarly situated persons for promotion as Technical Officer 'A' at par with the Diploma Holder Chargeman-II and other consequential reliefs.

3. The undisputed facts of the case make it very clear that the applicants who are respondents before this Court were working on the post of Chargeman-II in

the pre-revised grade of Rs.1400-2300/- and the service conditions were governed by the Recruitment Rules known as Defence Research & Development Organisation Group 'C' Non-Gazetted (Technical Scientific and other Ministerial) Posts Recruitment Rules, 1968. These Rules of 1968 were repealed and DRDO Technical Cadre Recruitment Rules, 1995 came into force.

4. Prior to enactment of the Rules of 1995 there were as many as 29 posts in the organization and a restructuring took place vide SRO 177/95 dated 16.08.1995. The salient features of the new scheme which came into force on account of SRO 177/95 dated 16.08.1995 by which 29 posts were merged and restructured into 8 grades and 12 pay scales were reduced to 6 pay scales are reproduced as under:

"(a) The DRTC as on 26.8.95 comprised of 3 categories known as Category-I, Category-II & Category-III, each consisting 4 grades.

(b) The vacancy based promotion system was replaced by merit based promotion system based on limited flexible complementing scheme. Unlike the old scheme the promotions are no more linked to the occurrence of vacancies. A certain percentage of eligible employees are promoted, provided they are meritorious enough to find a place in the percentage.

(c) In the old system the highest promotion was limited upto the post of Junior Scientific Officer Rs. 2375-3750 (pre-revised-A) Group B gazetted post. Under the new scheme 2 additional Group-A posts in the pay scale of Rs.2200-4400 and Rs.3000-4500 (both pre-revised) also have been included to provide higher career opportunity.

(d) 29 posts were reduced to 8 grades and 12 pay scales were reduced to six. Earlier direct recruitment was provided in almost all levels, excepting a few. Under the DRTC scheme, it is only confined to the lowest post of Categories-I & II, that is Technician-A and Technical Assistant – A respectively.

(e) While fresh recruitments in DRTC are based in the minimum prescribed qualifications, a provision has been made for promotion of existing personnel from one grade to another grade and from one category to another category even if they do not possess minimum prescribed qualifications for the higher category at the time of initial constitution/ reconstruction. Promotions are made on the basis of assessment by duly constituted Assessment Boards which assess the employees technical capability, professional ability, skill experience and work performance etc. Rule 6 of the SOR deals with the initial constitution of DRTC and accordingly it lays down the principle of placement of the then existing persons among 29 posts and 12 pay scales. The placement of existing incumbents of the pre-DRTC post in various grades was done after considering carefully all relevant factors like pay scales, qualifications, existing promotion channels etc.

(f) Since 2 grades of Category-I, that is Technician 'C' and Technical Assistant

and Category-II, that is Technical Asst. A&B were having the same pay scales, that is of 1320-2040 and 1400-2300 respectively, the placement was made in 2 categories on qualification primarily because entry qualification of 2 categories are different. However, no qualification criteria was adopted for placement of 2 grades having similar pay scale in Category-II (Technical Asst.-C & Technical Officer) and Category-III (Senior Technical Asst. And Technical Officer-A) as no separate entry qualification was made for Category-III."

5. It is noteworthy to mention that the respondent employees were working on the post of Chargeman-II, and a distinction was drawn in respect of Chargeman-II holding the qualification of Bachelors Degree in Science or 3 years' Diploma in Engineering Technology and Chargeman-II holding 10th Class or equivalent certificate and a certificate from Industrial Training Institute

6. The criteria of restructuring which came into force in 1995 placed the Chargeman-II into two other equivalent categories and after restructuring, those who were holding Diploma were called as Technical Assistants – B (TA-B). However, both were granted the same pay scale of Rs.1400-2300/-. There was no change in respect of the post of Chargeman-I and they continued in the pay scale of Rs.1640-2900/-

7. The TA-Bs became Sr. Technical Assistant (STA) and the TAs became TA-Cs. They were placed in the same pay scale of Rs.1640-2000/- and on revision of pay following adoption of 5th Pay Commission's recommendations, both were granted a higher pay scale of Rs.5500-9000/- and later on Sr. TAs were granted higher pay scale of Rs.6500-10500/- which was denied to TA-Cs and at that point of time as a higher pay scale was granted to persons holding higher qualification, the respondent employees alleged that their discrimination started.

8. The respondent employees who were the applicants before the Tribunal preferred an Original Application before the Tribunal challenging the disparity in pay scales and the same dispute which was the subject matter of the Original Application was also looked into by the Bangalore Bench of the Tribunal in O.A. No. 1040/98 & 1055-1109 of 1998 in which the Recruitment Rules were under challenge.

9. The Bangalore Bench of the Tribunal has allowed the Original Application of the employees posted at Bangalore of the same organization and paragraphs 9 to 12 of the Order read as under:

"9. The admitted facts of the case are that the applicants on recommendation of DPC were considered and promoted to the grade of Chagemen II as per the then existing rules prior to 26.8.1995 as admitted by the respondents in their reply in para 11 at page 5. These facts would disclose that when the applicants were in Chagemen grade 2 as on the date of implementing RRs 95 if by virtue of the implementation of the provisions of RRs 95 i.e. by insisting for the qualification regarding the canalisation by dividing the category of chagemen grade 2 into two groups one having required qualification and the other not

having required qualification and placing them in two different categories, having different future prospects would it amount to applying RRs 95 prospectively or retrospectively. When this question was put to the learned counsel for the respondents, the respondents contend that after the officials are brought within the purview of RRs 95 the Rules were applied to them prospectively and so RRs 95 was prospectively applied. When the learned counsel for the applicants was further asked whether there was any option left either for the Department or for the officials to be out of the purview of RRs 95 and still continue to work in the respondent department it is submitted that there is no such option left either for the management or for the employees and after the introduction of RRs 95 it governs all the officials working in the respondent department. It is also to be noticed at this stage that RRs 95 supersedes all the previous service rules as the preamble shows. Under those circumstances the contention of the respondents that the step of bringing all the officials within the purview of the RRs 95 and later applying RRs 95 prospectively is somewhat strange and cannot be accepted as the respondents wanted to put forth that the categorisation of the working employees depending upon the qualification can be implemented and that would amount to prospective application of RRs 95. On the other hand it has to be stated that the application of requiring the educational qualification and depending upon it categorising the working employees would amount to applying those RRs retrospectively which the respondent department is not authorised to implement retrospectively under RRs 95 itself. The respondents in their reply admitted that since the grade 4 of category I and grade 2 of category II are different and the seniority rolls of the two grades are also different and there can be no comparison between the two the placement of the applicants who were enjoying the same benefits which the other Chargemen Grade 2 before the categorisation enjoyed and who were placed in the category II grade 2 must be held as treating them differently on the basis of and having required qualification which they could have done under RRs only prospectively and in this case it would amount to that such insistence for qualification requirement for the officials in position on the date of implementation of RRs 95 would amount to retrospective operation of these rules. It is needless to submit that since the respondents themselves admitted that these rules would be implemented prospectively and they have not specifically denied the contention of the applicants that category I Grade is lesser in status than grade 2 category II persons who are treated equals prior to implementation of RRs 95, who are now treated differently by applying the qualification rule and for placing in two different categories with different promotional opportunities which is not permissible because retrospection application is not contemplated in RRs 95. Though the respondents argued that not denying the difference in the status that the equal pay was given to these two categories and so it cannot be contended that they were treated differently but this contention of the respondents is belied by the fact that 5th Pay Commission has granted higher pay scale for category II grade 2. Whereas the pay scale granted to category I grade 4 and Technician C was Rs. 4,000-6000; officials in grade II category II were given higher pay scale

which itself shows that grade 2 category II is higher in level than category I grade 4. Though the respondents contended that for the difference in the pay scales after the implementation of 5th Pay Commission this difference has arisen for which they are not responsible, this argument cannot be accepted because by virtue of different placement which is done by the respondents this situation has arisen for which the respondents cannot avoid their responsibility for creating such a situation. It is also not denied that the promotional prospects of these two grades are quite different. Under these circumstances it has to be held that the categorisation of the officials who are working as Chargeman Grade 2 before the implementation of RRs 95 in two categories on the basis of qualification which affects the future service prospects of persons placed in category I group IV cannot be upheld, however, laudable, the rules and the scheme of RRs 95 was that were framed but when the rules are framed and implemented they should not affect the rights and future service prospects of the employees who are working on the date of implementation as equals with the persons who are placed in the higher cadre. Under these circumstances the contention of the learned counsel for the respondents that the respondent-department is entitled to kept the applicants in different grades on the consideration of not having required qualification then the officials working as Chargeman 2 cannot be upheld.

10. Though the respondents contend that since this is a policy decision taken that cannot be interfered. This Tribunal is not interfering with the rules or policy decision taken by the respondent department in making the qualification as one of the considerations for the entry grade. In fact it is very strange that when rule 11 of RRs 95 exempts the insistence of qualifications for giving promotions on the basis of qualification the differentiation for the categorisation on the basis of qualifications is implemented by the respondents which remains unexplained. Learned counsel for the applicants also submitted that as per rule 6(4)(a) and 5(a) the qualifications insisted only for certain categories and the higher categories enjoy better promotional prospects though they do not have educational qualification as insisted for those posts under rule 6(4)(a) to 5(a). We do not wish to go into that aspect in view of the finding given above.

11. Another aspect that remains unexplained is as per Schedule III of RRs 95, the qualifications are prescribed only for grade 1 of category I and Grade 1 of category II and not for any other categories. Even according to the respondents this qualification has to be insisted for the persons who are entering into grade 1 of category I and grade 1 of category II but persons who are already working in the higher grades, formulating such rule and taking action that because they do not have prescribed qualification they should be categorised in different grades is beyond conception. It is all the more so because they (the applicants) have been employed on the basis of their having matriculation, certificate holders and diploma holders when they were appointed and after they were cleared for promotion by the DPC they are now placed in two different grades by insisting for the qualifications which is prescribed for a new entrant. By any stretch of

imagination this categorisation cannot be applied to the officials who are already working in the respondent department and this action cannot be upheld in any manner.

12. In view of the above it has to be stated that the contentions of the respondents are liable to be rejected. The respondents are directed not to apply the qualification clause for the applicants who are already chargeman grade 2 and the respondents are further directed to place all these applicants in the same category as the other persons who are placed in higher group on the basis of qualification from the date of implementation of RRs 95 and give them all further benefits to which they are entitled in the usual course in their service tenure as per rules. In other words the respondents are directed to implement RRs 95 prospectively in its strict sense. This exercise should be done by the respondents within a period of three months from the date of receipt of a copy of this order. OAs are accordingly allowed. No costs. "

10. The Order passed by the Bangalore Bench of the Tribunal makes it very clear that the Tribunal has allowed the Original Application and the placement of Chargeman-II in different categories was set aside.

11. The CAT, Principal Bench, New Delhi based upon the order passed by the Bangalore Bench has allowed the Original Application preferred by the employees and Paragraphs 9 and 10 of the Order passed by the CAT are reproduced as under:

"9. Coming to the merits, we observe that the applicants are seeking to assail the revision of scales of pay in various technical grades in DRDO, communicated by the impugned order dated 20.1.2000, with specific reference to the erstwhile post of Chargeman Grade-II. Following the adoption of DRTC Rules in 1995, was restructured as Technical Asstt. B (TA-B) and Technical Asstts (TAs), with those having higher qualification of Graduation and/ or diploma being TA -Bs and others being called TAs. Both remained in the same scale of Rs. 1400-2300. On promotion TA-Bs became Sr. TAs and TAs became TA - Cs but had the same scale of Rs. 1640-2900. The posts were placed on the same replacement scale of Rs. 5500-9000/-. It has however, been modified by the impugned order by granting the scale of Rs. 6500-10500/- to Sr. TAs leaving behind TA-Cs in the scale of Rs. 5500-9000/- This has given rise to certain anomalies and imbalances as at the stage of Chargeman-II, a combined seniority was being maintained for all, depending on their respective dates of entry into the grade, irrespective of the difference in their qualification. This also had the sanction of Rule 11 of the DRTC Rules 1995. Accordingly promotion to the next grades - TA -Bs to Sr., TAs and TAs to TA-Cs - was by common assessment. It is also observed that a few of the TA - Bs, who did not make to the higher grade of STAs in the Common Assessment by which some of the TAs like the applicant became TA-Cs, but made it only in the subsequent year have got the advantage of the higher scale of pay of Rs.6500-10500/- while the applicants were left behind at Rs. 5500-9000/- However, according to the respondents there was no discrimination in this

arrangement as the Govt. was competent to bring in changes in the conditions of service in all categories of employees subject only to the condition that the same would not be at the cost of those who are already enjoying a position. It is also their plea that the Government was correct in distinguishing between the categories of technical staff on the basis of qualification. We find force in this plea of the respondents. Government can, in the interest of maintenance of greater efficiency direct that persons holding certain posts, especially technical posts, should have specified qualifications and that only those with such specified qualifications can have career advancement in that line. But in our view, the position in law is that when such changes are ordered it cannot be at the cost or detriment of those who are already occupying positions, on account of their long experience and specific protection granted by law. It is in this context that the decision of the Bangalore Bench of the Tribunal dated 15.12.1999 passed in OAs 1040 and 1055/1998 becomes relevant. In those applications, validity of Rule 6 (4) (a) of the Defence Research and Development Organisation Technical cadre Recruitment Rules, 1995, as a sequel to which impugned order in this has been issued was under challenge. The applicants in those OAs were similarly placed as the applicants before us being technical staff, of the category of Chargeman-II. They had challenged their being discriminated on the basis of qualification and being denied the advancement in career vis-a-vis their colleagues, who were qualified, though they all belonged to the same category. Respondents had tried to justify their stand citing it as a policy prescription which was unassailable. The same was repelled by the Bangalore Bench in view of Rule 11 of the Rules which gave specific exemption to existing personnel and the fact that Rule 6(4) (a) insisted on qualification only for certain categories while higher categories enjoyed better promotional prospects even though they did not have the educational qualification as insisted for. While allowing the OAs, the Tribunal/ Bench directed the respondents not to apply the qualification clause for those who were already chargemen grade-II but to place all the applicants in the same category as those "placed in the higher group on the basis of qualification from the date of implementation of the Recruitment Rules 1995 and give them all further benefits to which they are entitled in the usual course of their service tenure as per rules. In other words, the respondents are directed to implement RRs 95 prospectively in its strict sense." The above order of the Tribunal is not as yet found to have been challenged, set aside or even stayed. We respectfully agree with the same, and it is in consonance with our view as well. Logical corollary therefore is that the impugned orders dated 20.1.1999, issued revising the pay scales of staff, created on restructuring and re-organising the cadre following the adoption of DRDO Technical Rules, 1995 would warrant modifications, keeping in view the above decision. It is an admitted fact that the post of Chargeman Grade II was restructured as TA- Bs and TAs following the adoption of recruitment rules 1995 and that they were continued to be on the same scale of Rs.1400-2300/- and same level, in deference to Rule 11 which stated that those in "position at the commencement of these rules shall be exempt from requirements of qualifications prescribed in Schedule III for

promotion from one grade to another and from one category to another.” Consequent on their promotion to the next grade as S.T.As and T.A.Cs. by common assessment also the same scale of pay was continued. That being the case, restricting the higher scale to only one group was not legal and was discriminatory. All those who were chargemen II on that date would be correctly entitled to the benefit. This would not however, be available to those who became TAs subsequent to the adoption of the RRs 1995, as the condition of qualification is very much applicable to them and they would not be covered by the protection granted by Rule 11.

10. In the above view of the matter the application succeeds to a substantial extent and is accordingly disposed of. The respondents are directed to place such of those applicants who were already in position as Chargeman Grade II at the time of restructuring and re-organisation of the Technical Cadre following the implantation of the DRDO Technical Cadre Recruitment Rules 1995 and became Technical Assistants (T.As) and thereafter on promotion became T.A.Cs. and who were originally at the same scale of pay of TA-Bs and STAs, in the higher grade of Rs.6500-10500/- at par with STAs from the date on which STAs were given the higher grade with benefits arrears of pay and allowances. Similarly such those applicants who were already in position as Chargeman Grade II and became TAs in 1995 following the restructuring should be granted the scale of Rs.5500-9000/- at par with TA 'B' 'S' from the date of which they were placed on the same scale with full consequential benefits. It is further clarified that the above benefit (s) would not be applicable to those of the applicants if any, if he/she was not already in the Grade of Chargeman II on 26th August 1995 the date from which the DRDO TC Recruitment Rules were given effect to. ”

12. The aforesaid order makes it very clear that the Original Application was allowed based upon the judgment delivered by a co-ordinate Bench i.e. Bangalore Bench of the CAT.

13. While all this was going on, the judgment delivered by the Bangalore Bench of the CAT was subjected to judicial scrutiny and the Division Bench of the High Court of Karnataka has set aside the order passed by the Bangalore Bench and Rules 6(4)(a) A on the basis of which classification was done, was upheld.

14. Paragraphs 8 and 9 of the Order dated 15.02.2001 passed by the Karnataka High Court in W.P.(C.) No. 11728-755/2000 read as under:

“8. These observations should be understood in the light of the fact situation obtaining in that case. The appellants before the Supreme Court were directly recruited as Data Processing Assistants and as per the recruitment Rules, they were entitled to be promoted as Data Processing Supervisors. However, because of change in qualifications for recruitment of Data Processing Assistants, they were shifted to different stream i.e., Data Entry Stream and were refused revised scales applicable to Data Processing Supervisors. The impugned action taken by the respondents had the effect of redesignating the appellants who were

recruited as Data Processing Assistants as Data Entry Operators in lower scale. It is seen from para 51 that there was a clear demarcation of the Data Entry Stream and Data Operation Stream and the appellants before the Supreme Court were recruited as Data Processing Assistants and they were even confirmed in those posts. It is in this context the Supreme Court observed: "To now say that the appellants did not have the diploma/ certificate or had not been recruited on the basis of tests would, in our opinion, amount to imposing these qualification with retrospective effect and such an action, even if made by Rules, would be arbitrary. If made retrospective and if the earlier recruitment or confirmation in posts were to be disturbed, that would also be arbitrary". The fact situation in the present case is not similar and it cannot be said that the Supreme Court laid down any principle different from what was spelt out in the Constitution Bench case of TRILOKI NATH. We are of the view that the decision in CHANDRAPRAKASH MADHAVRAO'S case does not come to the aid of the respondents.

9. We see no constitutional infirmity in the impugned Rule 6(4)(a). In the result, the order of the Central Administrative Tribunal is set aside and the writ petitions are allowed."

15. The Petitioner Union of India after the order was passed by the Karnataka High Court preferred a review application before the Tribunal i.e. Review Application No. 39/2002 and brought it to the notice of the Tribunal that the Judgment of the Bangalore Bench has been set aside vide order dated 15.02.2001 by the Karnataka High Court. However, the Review Application was dismissed by the Tribunal vide order dated 03.09.2002 holding that the relief was granted to the employees by a decision taken by the Tribunal on their own and the Tribunal has only gained support from the Bangalore Bench decision.

16. Paragraphs 7 and 8 of the order passed by the Tribunal in the Review Application are reproduced as under:

"7. We have carefully considered the RA and the rival contentions. According to the review applicants we had committed an error in that we had followed the order of Bangalore Bench issued on 15-12-99 and extended the benefit to the applicants on 19-9-2001 while the former order had been set aside on 15-2-2001 itself. This averment does not merit acceptance as it does not represent facts. While our decision dt. 19-9-2001 and the decision of the Bangalore Bench dt. 15-12-99 are granting the same reliefs to similarly placed applicants they have been arrived at separately and they stand on their own. This would clear from our order which states as follows:-

"However, according to the respondents, there was no discrimination in this arrangement as the Govt. was competent to bring in changes in the conditions of service in all categories of employees subject only to the condition that the same would not be at the cost of those who are already enjoying a position. It is also their plea that the Govt. was correct in distinguishing between the categories of

technical staff on the basis of qualification. We find force in this plea of respondents. Govt. can in the interest of maintenance of greater efficiency direct that persons holding certain posts, especially technical posts should have specified qualifications can have career advancement in that line. But in our view, the position in law is that when such changes are ordered it cannot be at the cost or detriment of those who are already occupying positions, on account of their long experience and specific protection granted by law”.

The above decision had been taken by us on our own and we had only gained support from the Bangalore Bench’s decision, as it was in consonance without view as well. The mention that Bangalore Bench’s order has not been challenged, set aside or stayed, had been made only in that context. Obviously, therefore, our decision does not warrant any review on the basis of the Hon’ble Karnataka High Court, as the review applicants would like us to do. Moreover, the respondents also had not inspite of the resources at their end brought to the notice of the Tribunal the order of Karnataka High Court, which according to them was not crucial. Therefore, they cannot take a view that an error had crept in our order, which had been passed on the due appreciation of law and facts at the relevant time.

8. Evidently, therefore, the review applicants had not made out any convincing case for justifying the recall and review of our order dated 19-9-2001 in OA 87/2000. Review application, therefore, fails and is accordingly dismissed.”

17. The present writ petition has been filed by the petitioner Union of India being aggrieved by the order passed by the Central Administrative Tribunal on the ground that the impugned order was passed based upon the Bangalore Bench order in O.A. No. 1040/98 & 1055-1109 of 1998 dated 15.12.1999 in which Rule 6(4)(a) of the DRCTC Rules was under challenge and once the judgment delivered by the Bangalore Bench of the Tribunal itself has been set aside by the Karnataka High Court, the Tribunal should have allowed the Review Petition as the base itself was knocked down by the High Court of Karnataka vide order dated 15.02.2001.

18. Learned counsel for the Respondents has placed heavy reliance upon the judgment delivered in the case of Sant Ram Sharma v. State of Rajasthan and Others, (1968) 1 SCR 111 and heavy reliance has been placed upon paragraph 7 of the aforesaid judgment and the same reads as follows:

“7. We proceed to consider the next contention of Mr N.C. Chatterjee that in the absence of any statutory rules governing promotions to selection grade posts the Government cannot issue administrative instructions and such administrative instructions cannot impose any restrictions not found in the Rules already framed. We are unable to accept this argument as correct. It is true that there is no specific provision in the Rules laying down the principle of promotion of junior or senior grade officers to selection grade posts. But that does not mean that till statutory rules are framed in this behalf the Government cannot issue

administrative instructions regarding the principle to be followed in promotions of the officers concerned to selection grade posts. It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed.”

19. This Court has carefully gone through the aforesaid judgment and the present case is not a case where promotions have been made based upon administrative instructions. In the present case, Recruitment Rules have been framed. They came into force in 1995 and based upon the Recruitment Rules, restructuring of the cadre took place and, therefore, the judgment relied upon is of no help to the respondents.

20. In the considered opinion of this Court, once the basic judgment on the basis of which the relief was granted to the employees i.e. the judgment delivered by the CAT, Bangalore Bench in O.A No. 1040/98 & 1055-1109 of 1998 which was set aside by the Karnataka High Court, the Principal Bench, CAT has certainly erred on law and facts in dismissing the Review Petition vide order dated 03.09.2002 and therefore, the order passed in RA No. 39/2002 and the order passed in OA No. 87/2000 are quashed.

21. The present case is certainly not a case of reduction in pay scale. It is a case of categorization of various trades/ cadres and as in the DRDO there were as many as 29 trades/ cadres carrying different pay scales on account of the Recruitment Rules, they were merged into 8 pay scales and promotional avenues were also provided to the employees therein. The employees who were holding higher qualification were placed in a separate category i.e. Degree Holder and the employees who were having lesser qualifications were placed in lower category. However, at the time of restructuring, the pay scale was not reduced of different categories and all Chargeman-II even after categorization were placed in the same pay scale. It was only after the recommendation of the Fifth Pay Commission, the higher pay scales were granted and it is nobody’s case that on account of restructuring pay scales have been reduced of the employees. The employees cannot compare their case with the cases of employees with higher qualification and a reasonable classification has been done by the employer by placing employees in different cadres based upon the qualifications.

22. The Karnataka High Court has upheld the validity of the statutory provisions governing the field and once the Division Bench of the Karnataka High Court has upheld the validity of the Recruitment Rules all consequential actions by the Department are certainly as per Recruitment Rules and cannot be interfered with as prayed by the Petitioners.

23. In the considered opinion of this Court, the classification/ categorization on the basis of educational qualification is primarily in the domain of the employer, or for the statutory authorities and it is nobody’s case that while carrying out the

classification, the pay scales of the employees were reduced.

24. Grant of higher pay scale based upon the recommendations of the pay Commission to a class of employees is purely a policy decision of administrative nature and the Tribunal has certainly erred in law in allowing the Original Application and has also erred in law and facts in dismissing the review petition specially when the basic judgment delivered on the subject by the Central Administrative Tribunal, Bangalore Bench was set aside.

25. Resultantly, this Court is of the opinion that the Order passed by the CAT in R.A. No. 39/2002 in O.A. No. 87/2000, dated 03.09.2002 deserves to be set aside and is accordingly set aside.