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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1735/2002

Tuesday, this the 9th day of July, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Shri Chajju Ram
S/O Shri Mohan Lal
R/O C-II/314, Madangir
New Delhi-62

..Applicant

(By Advocate: Shri S.K.Gupta for Shri B.S.Gupta)

Versus

1. Union of India
through Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan
New Delhi
2. Director
Aviation Research Centre
Cabinet Secretariat
East Block-V, R.K.Puram
New Delhi

..Respondents

O R D E R (ORAL)

Shri S.A.T. Rizvi:-

The applicant, a non-matriculate was recruited as Police Constable in 1971 and was placed in the pay scale of Rs.85-110/- which was subsequently revised to Rs.210-270/- on the basis of Third Central Pay Commission's report. By the same report of the Commission, the matriculate Constables were placed in the higher pay grade of Rs.225-308/-. The aforesaid disparity in pay scales was agitated before the Cuttack Bench of this Tribunal in OA-57/86. The aforesaid OA was allowed in favour of the non-matriculate Constables. The aforesaid judgement of the Tribunal was taken to the Hon'ble Supreme Court in appeal. The Supreme Court upheld the Tribunal's judgement. Thereafter, some of the other applicants approached this Tribunal in OA-1205/2001 for a

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similar decision. That OA was decided on 22.1.2001 (A-3). By the order passed by the Tribunal in the aforesaid case on 22.1.2001, the applicants in that OA were directed to be placed in the higher pay grade notionally w.e.f. 1.1.1973. The Tribunal further directed that the applicants would be entitled to arrears of pay and allowances from 1.7.1997, which was the date three years prior to the date of filing of the aforesaid OA.

2. The applicant in the present OA filed a representation before the respondents for extending the benefit of the Cuttack Bench judgement. However, the same was rejected on the ground that only those involved in the case before the Cuttack Bench could avail of the benefit of the judgement made by that Bench. The order rejecting the applicant's claim has been issued on 18.4.2002 (A-1).

3. The learned proxy counsel appearing on behalf of the applicant submits that in view of what the Hon'ble Supreme Court has held in the case of Ashwani Kumar & Ors. Vs. State of Bihar & Ors., reproduced in JT 1997 (1) SC 243, the benefit in question should have been extended to the applicant without any hesitation on the part of the respondents. The relevant extract taken from the aforesaid judgement of the Supreme Court is reproduced below:-

"Nor can we say that benefit can be made available only to 1363 appellants before us as the other employees similarly circumscribed and who might not have approached the High Court or this Court earlier and who may be waiting in the wings would also be entitled to claim similar reliefs against the State which has to give equal treatment to all of

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them otherwise it would be held guilty of discriminatory treatment which could not be countenanced under Articles 14 and 16 (1) of the Constitution of India."

This Tribunal had also relied on the aforesaid judgement of the Supreme Court in passing orders in OA-1205/2000.

4. We have considered the submissions made by the learned counsel and find that by relying on the aforesaid judgement made by the Supreme Court and the judgement of this Tribunal in OA-1205/2000, it should have been possible for the respondents to extend the benefit in question to the applicant in the present OA notionally w.e.f. 1.1.1973 and similarly, arrears of pay and allowances should also have been allowed to the applicant from 28.6.1999, which is the date three years prior to the date of filing of the present OA on 28.6.2002. Since the respondents have rejected the applicant's claim by passing an order which, in our view, is untenable, we would like to give to the respondents another opportunity to consider the matter further in the light of the aforesaid judgements of this Tribunal and the Supreme Court.

5. In the aforestated circumstances, we find it in order to dispose of the present OA at this very stage even without issuing notices with a direction to the respondents to consider the matter as above and to pass a supplementary order in continuation of the impugned order dated 18.4.2002 (A-1) expeditiously and in any event within a period of three months from the date of receipt of a copy of this order.

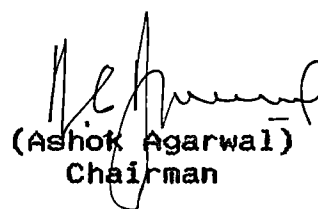
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6. The present OA is disposed of in the aforestated terms.



(S.A.T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

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