

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1262/2002

This the 15th day of May, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Gian Singh,
Ex-SSK 6956881,
12-K, Gandhi Market,
West Sagarpur,
New Delhi-110 046.

-Applicant

(By Advocate: Ms. S. Janani)

Versus

1. Union of India
Through the Secretary,
Ministry of Defence,
Central Secretariate,
New Delhi.
2. The Director Public Grievance/
Joint Secretary,
Ministry of Defence,
South Block,
New Delhi-110 011.
3. The Commandant,
Central Vehicle Depot,
Ministry of Defence,
Delhi Cantt.,
New Delhi-110 010.
4. The Director General of
Ordnance Branch (Service),
MGOB,
Army Headquarters, DHQ P.O.
New Delhi-110 011.

-Respondents

ORDER (Oral)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

The applicant is aggrieved by the letter issued by the respondent No.4 by which his request for protection of previous pay scale has been turned down.

2. We have heard Mrs. S. Janani, learned counsel and perused the relevant documents on record. According to

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the learned counsel, applicant's case is fully covered by the judgment of the Tribunal (Allahabad Bench) in **Shyam Lal Dubey Vs. President of India and others** in OA No.434/1986 decided on 17.8.90 and the subsequent order of the Tribunal (Principal Bench) in **P.C. Jain and another Vs. Union of India & Ors** in OA No.779/97 decided on 9.1.2001 (copies placed at Annexures 3 & 4 of the paper book). In **P.C. Jain's** case (supra), the applicants in that case had also sought a direction to the respondents to allow them to carry their higher pay as Lower Division Clerk (LDC) declared surplus with effect from the date of the absorption on the lower post with all consequential benefits. They have also relied on the judgment of the Allahabad Bench of the Tribunal in **Shyam Lal Dubey** (supra). In the present case vide impugned letter dated 7.9.2001, respondent No.4 has conveyed to the applicant that respondent No.1 i.e. the Ministry of Defence had not agreed to their proposal for protection of pay scale of those employees who were declared surplus and later on absorbed in AOC. No reasons for rejection of the claim has been given in the impugned letter. Learned counsel for applicant submits that in both the aforesaid cases namely, **Shyam Lal Dubey** and **P.C.Jain** (supra), the decisions of the Tribunal have been implemented, granting the benefit of higher pay scale. She has, therefore, submitted that there is no reason why the present applicants who are similarly situated like the applicants in those cases should also not get the benefit of higher pay scale/pay protection from due date.

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3. In the facts and circumstances of the case, as mentioned above, there is no reason given in the impugned letter dated 7.9.2001 to reject the applicant's claim for pay protection. He also claims that he is similarly situated as the applicants in OA-434/86 and OA-779/97 which have been decided by the Tribunal. We also note the submissions made by the learned counsel for the applicant that a number of representations have been made by the applicant in this regard to which only a bald reply has been given vide letter dated 7.9.2001.

4. In the above facts and circumstances of the case, we consider it appropriate to dispose of the OA with the following directions:-

i) Respondents to take a final decision in the matter in accordance with rules and instructions and in the background of the aforesaid decisions of the Tribunal to the extent that they are applicable to the facts and circumstances of the present case.

ii) They shall also pass a reasoned and speaking order, particularly if they are rejecting the claim of the applicant and take the view that the aforesaid decisions of the Tribunal are not applicable to the facts of

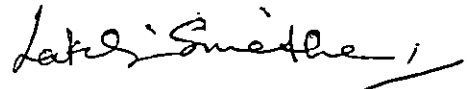
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the present case, to clearly state the reasons therefor. This shall be done within three months from the date of receipt of a copy of this order.

No order as to costs.



(V.K. Majotra)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.