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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O A NO. 36/2001
New Delhi this the 15th October 2001
Hon'ble Justice Mr. Ashok Agarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member (A)

Ishwar Singh Varma (MES/460736)
(Retired UDC)
House No. 476/3
Prem Nagar, Delhi Road
GURGAON(HR)

.....Applicant

(By S N Anand, Advocate)

VERSUS

1. Union of India through Secretary
Ministry of Defence
South Block, New Delhi
2. Chief Engineer, Western Command,
Chandi Mandir.
3. Engineer-in-Chief
Army Headquarters
Kashmir House, New Delhi
4. The Engineer,
Stores Depot,
Delhi Cantt.

.....Respondents.

(None for the respondents)

O R D E R (ORAL)

BY HON'BLE ~~MR. GOVINDAN S. TAMPI~~, MEMBER (A)

In this O.A. the applicant seeks the intervention of the Tribunal to secure for him the benefit of Assured Career Progression (A.C.P.) or in the alternative Stagnation increments with consequential benefits accruing thereto.

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2. Heard Shri S N Anand , learned counsel for the applicant . None was present for the respondents. Therefore we are proceeding to dispose of this OA in terms of Rule 15 of the CAT (Procedure) Rules on merits after perusing the relevant facts brought on record.

3. Briefly stated the facts are that the applicant who joined as Civilian LDC with the respondents on 7.7.64 worked for 28 years when he became ~~the~~ UDC on 2.6.92 in which capacity he retired on 31.10.96. Though the 5th Central Pay Commission recommendations were accepted and implemented w.e.f. 1.1.96 , the recommendations relating to ACP Scheme came into effect only from 9.8.99. The same therefore was not made available to the applicant nor did he get any stagnation increment. The applicant's several representations to the Govt. in this connection were of no avail. Hence this O.A.

4. During the oral submissions Shri Anand, learned counsel pointed out that as the applicant had suffered acute stagnation in his service as he worked over nearly 28 years before he got his first promotion from LDC to UDC he should have been given some stagnation removal benefits which were not granted to him. The benefits of the ACP which flowed from the recommendations of the 5th Central Pay Commission also could not come to his rescue as by the time he had retired on superannuation. In the circumstances he had to retire as a UDC without any benefit inspite of his long service. After the adoption of the recommendations of the 4th Pay Commission employees serving at the maximum of their scales were to be granted one stagnation increment each every two years of stagnation which also not granted to him. The same was harsh and had caused considerable injury to him.

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The Tribunal should therefore interfere and render him justice is his plea. He also points out as this is a matter relating to fixation of pay which is continuous cause of action his OA was not hit by limitation.

5. In the written submissions filed by the respondents it is pointed out that the application was misconceived and that applicant was not entitled to seek the benefit of ACP Scheme as a matter of right further the applicant had retired from service on 30.10.96, the benefit of ACT could not be granted to him. The respondents state that there were persons who had still longer service than the applicant but who had to retire in the same cadre where they joined. This cannot therefore be helped. Further as the applicant had not stagnated on the maximum of the Revised Scale under RPR 1997 he could not be given any benefit of stagnation removal increment. The OA therefore merits dismissal is the respondents plea.

6. We have carefully considered the matter. We find that the submissions made in the OA reiterated by the learned counsel for the applicant during the hearing as well as the points raised in the counter filed by the respondents are somewhat vague. What we have been able to glean from the records, are that the applicant is seeking the benefit either of the ACP Scheme or the grant of stagnation increments, whichever is applicable to him while the respondents is that he is not entitled for either. We do not fully agree. As the applicant had retired on superannuation on 31.10.96 i.e. much before the 9.8.99 when the ACP Scheme was given effect to his case cannot be considered under the scheme. Even otherwise since he had got one promotion in 1992 his case

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would not have become eligible for consideration under ACP under its conditions. The fact however remains that he took nearly 28 years for him to get his single promotion as UDC and that he would have stagnated at the maximum of the scale of pay of LDC at least for some time, at least after the grant of Stagnation Removal Increments adopted in terms of the recommendations of the 4th Pay Commission which came into effect from 1.1.86. He has therefore entitled for the benefit of stagnation increments after he had reached the maximum of the pay scale as LDC between 1.1.86 and June 92 when he was promoted as UDC.. The applicants states that he had not received the same. There is no averments rebutting it from the side of the respondents. Therefore, in our view he would be correctly entitled for grant of Stagnation Increments for every 2 years between 1.1.86 and June 1992. Once he had reached the maximum in the scale of pay of LDC. The said benefit cannot be denied to him, if he has not be given the same.

6. In view of the above, we dispose of the OA with the directions to the respondents to consider the case of the applicant for grant of stagnation removal increments permitted by the 4th Pay Commission and implemented by the Government for the years he had stagnated at the maximum of the pay scale of the LDC during the period 1.1.86 to June 1992 with consequential benefits including arrears and pensionary benefits. No costs.

7. The operative portion of the order was pronounced in the court at the conclusion of the oral submissions.

(Govindan S. Tampi)
Member (A)

Patwak

(Ashok Agarwal)
Chairman