

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1894/1998

New Delhi this the 27th day of June, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Smt. Shanta Shastri, Member (A)

Ganpat Singh
S/O Shri Gabar Singh,
R/O H.No. 17, Sector-VII,
R.K. Puram, New Delhi.

.. Applicant

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Defence, South Block,
New Delhi.

2. The Chief of the Naval Staff,
Naval Head Quarter (DCP),
New Delhi-11.

3. The Commanding Officer,
INS India, Dalhousia Road,
New Delhi-II

.. Respondents

(Departmental representative Lt. Cdr.
Sh. P. D. Rana)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by the action of the respondents in not considering his case for grant of higher revised pay scale of Rs. 330-480 (pre-revised) and Rs. 1200-1800 (revised scale) under the IVth Pay Commission w.e.f. 1.1.1986 in terms of the Naval Head Quarter letter No. CP(SC)/P/630 dated 30.4.82 (hereinafter referred to as the 'NHQ'). According to him, similar benefits have been given to other persons who are juniors to him and denial of the higher pay scale is, therefore, alleged to be arbitrary, illegal and ~~is~~ in violation of the provisions of Articles 14 and 16 of the Constitution.

2. The brief relevant facts of the case are that the applicant was initially appointed as Rigger II in 1955, promoted to the post of Rigger I on 1.4.59 and was further promoted to the post of Leading Rigger on 1.8.1986. He has since retired from service on superannuation on 30.6.1993. The applicant has stated that the channel of promotion in the cadre of Rigger was from Rigger II to Rigger I, Rigger I to Leading Rigger and

Leading Rigger to Rigger 'A'. He has submitted that before the letter of Ministry of Defence dated 16.12.1981 was issued the pay scales in the cadre of Riggers were as under:-

Rigger-II	Rs. 210-290
Rigger-I	Rs 225-380
Rigger-Leading	Rs. 260-400
Rigger'A'	Rs.380-560

After issuance of the Ministry of Defence letter dated 16.12.1981 the pay scales in the cadre of Riggers were revised as under:-

Rigger-II	Rs. 210-290
Rigger-I	Rs. 260-400
Leading-Rigger	Rs.260-400
Rigger'A'	Rs. 380-560

According to Shri Yogesh Sharma, learned counsel that after the NHQ letter of 1982, further revision in pay scale had taken place which are as under:-

Rigger-II	Rs.260-400
Rigger-I	Rs.330-480
Leading Rigger	Rs.260-400
Rigger'A'	Rs.380-560

2. The applicant has stated that on 30.4.1982 when the pay scale of Riggers were revised, the applicant was working as Rigger-I in the pay scale of Rs.260-400 and his claim is that in terms of the NHQ letter dated 30.4.1982, his pay should have been revised to the higher pay scale of Rs.330-480 from Rs.260-400 but this has not been done. Shri Yogesh Sharma, learned counsel has relied on the order of the Tribunal in Babu Ram and Others Vs. Union of India and Ors (OA 1354/96) decided on 21.1.1997 (Ann.A.6). In that case it had been noted that based on the submissions made by the learned counsel for the respondents, that the subject matter under issue in that case which is similar to the issue raised in this case, was under examination at NHQ in consultation with the Cadre Controlling Authority, ~~which is~~ at Mumbai. In that case a direction was, therefore, given to the respondents to consider the case of the applicants regarding their fitment in

18.

the appropriate pay scale in consultation with the Central Government-Ministry of Finance and pass a detailed and speaking order. Shri Yogesh Sharma, learned counsel submits that he understands that in furtherance to the Tribunal's order dated 21.1.1997, appropriate decision has been taken by the respondents in the case of those who have been given the higher pay scale since, 1982 in the grade of Rigger Grade-I. He has also submitted that certain juniors to the applicant have also been granted higher pay scale and his claim, therefore, is that the respondents should be directed to consider the case of the applicant for grant of revised pay scale of Rs.330-480 w.e.f. 30.4.1982 till the time he was working as Rigger Grade-I with consequential revision of pay scale, following from the IVth Pay Commission recommendations which have been accepted by the Govt. of India.

3. We have seen the reply filed by the respondents and have also heard ^{the} departmental representative. The respondents have submitted that the Leading Rigger ^{which} was carrying ^a higher pay scale of Rs.260-400 than Rigger Grade I in the pay scale of Rs.225-380 ^{which} was not upgraded whereas the Rigger Grade I was elevated to the pay scale of Rs.330-480 applicable to HSK II.

They have further submitted that the benefit of the higher pay scale was not given to the Leading Rigger and hence there is "an unresolved pay anomaly till date". Further in reply to the averments made in paragraph 5 of the OA, it is noted that the respondents have stated that it is correct that the applicant has stated that the pay of Rigger I has been revised and not Leading Riggers. According to them, the applicant cannot be counted ^{as} ~~in the~~ similarly situated persons. According to them the applicant has been given ^{the} correct pay scale. They have also stated that the OA is barred by limitation. Departmental representative has also submitted that the judgement of the Tribunal in Babu Ram's case (Supra) is applicable only to the petitioners who were serving as Rigger I and not Leading Riggers which is the situation in the case of the applicant. However, it is relevant to note that even if the applicant was holding ^{the} post of

Leading Rigger at the time of his retirement, it is not denied that during the relevant period in 1982 he was holding the post of Rigger-I. 18

4. We have carefully considered the submissions made on behalf of the parties.

5. From the facts mentioned above and the stand taken by the respondents, it is seen that the main contention of the respondents is that as the applicant had retired as Leading Rigger and not Rigger I, he is not entitled to the higher pay scale which was otherwise admissible to those holding the posts of Rigger I. We are unable to agree with this contention of the respondents because admittedly during the relevant period from April, 1982 till he was promoted as Leading Rigger on 1.8.1986, the applicant was holding the post of Rigger I. The respondents have also not denied that persons junior to him in that grade have since been given the revised pay scale of Rs.330-480 as Rigger I. Applicant has also stated in the rejoinder that following the decision taken by the respondents in Babu Ram's case (supra), the respondents have decided to revise the pay scale of Rigger I and grant the revised pay scale to the working employees, namely, one Sh. Hoshier Singh who is working as Leading Rigger. The distinction sought to be made by the respondents between a retired employee and a serving employee, for the purposes of granting the revised pay scale to those persons who are holding the post of Rigger I but not to the others is, therefore, arbitrary and cannot be accepted. The point to note is that at the relevant time, there is no doubt that the applicant was also holding the post of Rigger I and, therefore, we see no reason why the claim of the applicant for being granted the benefits of the higher revised pay scale, which has been granted to other similarly situated employees should be denied to him. From the facts mentioned above it is

also seen that the applicant would otherwise get a lower pay scale on his promoted post as a Leading Rigger, which fact has not been denied by the respondents who have themselves stated that the non-revision has led to some anomaly in the pay scales. 19

6. Having regard to the averments made by the respondents themselves following the Tribunal's order dated 21.1.1997 in OA 1354/96 the plea of limitation taken by the respondents is also rejected.

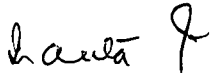
7. In the facts and circumstances of the case the OA succeeds and is allowed with the following directions:-


(i) Respondents to consider the case of the applicant for grant of revised pay scale of Rs.330-480 w.e.f. 30.4.82 and revised pay scale of Rs.1200-1800 w.e.f. 1.1.1986 till the time he was working as Rigger Grade I i.e. upto 1.8.86. He shall be entitled to be paid the difference in the pay scales;

(ii) As the applicant has retired from service, he shall also be entitled to revision of pensionary benefits in accordance with the rules and regulations;

(iii) Necessary action as above shall be taken within three months from the date of receipt of a copy of this order.

No order as to costs.


(Smt. Shanta Shastri)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

sk