

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2453/95

New Delhi this the 23rd day of April 1996.

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)
Hon'ble Mr. R.K. Ahoja, Member (A)

1. R.C.Udenia, PBSO
R/o E-149 Nanakpura, New Delhi.
2. Pranab Mukherjee, PAO
R/o D-8 Andrews Ganj Extn.
New Delhi.
3. N.A. Kesar, SAO
R/o 524 Sector IV R.K. Puram
New Delhi-22
4. B.L. Mendiratta, SBSO
R/o 910 Sector 4, Panchkula
5. Rattanlal, SBSO
R/o 596-A, R.K. Puram Sector III
New Delhi-22

(By Advocate: Sh. U.S.Bisht.)

... Applicant

Versus

1. Union of India through
Secretary, Ministry of Defence
New Delhi.
2. Engineer in Chief's Branch
Army HQ, Kashmir House
New Delhi-11
3. Chief Administrative Officer
Joint Secretary, Ministry of Defence
C-2 Hutmants
New Delhi-11
4. Controller of Defence Accounts
C-Block, New Delhi-11.

... Respondents

(By Advocate: Sh. V.S.R.Krishna)

ORDER (Oral)

Hon'ble Mr A.V. Haridasan, Vice Chairman (J)

The applicants who are administrative officers in the Military Engineering Service are aggrieved by the denial to them of the HQ's special pay inspite of the fact that they are similarly situated as the applicants in OA 1137/94 to whom the same was paid on the basis of the order of the Tribunal. The applicants have filed this application praying that the rejection of their request for granting to them the same benefit dated 23.2.1995 may be quashed and the respondents may be directed to pay to the

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applicants arrears of special pay and to continue to pay to them until they retire or relinquish their posts.

2. The fact that the applicants are similarly situated as the applicants in OA 1137/94 and that pursuant to the orders of the Tribunal in that case payments had been made to the applicants is not disputed. The respondents resist the claim of the applicants on the ground that they are not parties to the OA No.1137/94. They further contend that an SLP 2490/91 involving an identical question is pending before the Hon'ble Supreme Court and hence the applicants are not entitled to the special pay.

3. We have heard learned counsel of the parties and have perused the records. Pendency of a Special Leave Petition before the Hon'ble Supreme Court where the identical question may also be involved is not a reason why this case shall not be adjudicated by the Bench. An identical issue as involved in this case came up for consideration before the Bench. This Tribunal in OA 883/95 decided the case on 9.2.96. The contention raised by the respondents that the applicants therein did not belong to the organised service was rejected by the Bench and it was held that the applicants therein are entitled to the arrears of HQ's special pay. The respondents cannot discriminate two sections of officers merely for the reason that one section did not resort to litigation and while the other section did. In view of the fact that a similar issue has already been adjudicated and decided in OA 1137/94 and OA No.883/95, there is no merit in the contention of the respondents that the applicants are not entitled to the HQ's special pay.

4. In the light of what is stated above, following the decision in OA 1137/94 the application is allowed and the order dated 23.2.95 is set aside. The respondents are directed to pay to the applicants the arrears of special

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pay for the period they remained posted in the HQs, and continue to pay the same to those who continue as such till they are transferred from the HQs. The arrears of special pay as aforesaid shall be paid to the applicants within a period of three months from the date of receipt of this order.

~~R.K. Ahuja~~
(R.K. Ahuja)
Member (A)

jk.


(A.V. Haridasan)
Vice Chairman (J)