

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH
NEW DELHI

O.A. No. 883/1995

Date of decision 9-2-1996

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

Shri S.R. Gupta, S.A.O.
O/O Engineer-in-Chief's Branch,
r/o B-5, 4595, Vasant Kunj,
New Delhi-17.

(Applicant present in person) ... Applicant

Vs.

1. Union of India,
through Secretary,
Ministry of Defence, South Block, DHQ, P.O.,
New Delhi.
2. Engineer-in-Chief's Branch
Army Headquarters, Kashmir House,
DHQ P.O., N/Delhi-11
3. Controller of Defence Accounts,
Headquarters 'G' Block

(By Advocate Shri M.K. Gupta) ... Respondents

ORDER (ORAL)

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

Applicant is aggrieved by the order dated 8-5-1995 (Annexure-I) passed by the respondents in which his representation for grant of Headquarter Special Pay in accordance with the Ministry of Defence O.M. dated 20.8.1975 (Annexure A-5) has not been allowed.

2. The brief facts of the case are that the applicant, who joined the Military Engineering Service (MES) as Administrative Officer Grade-II in 1979 was later promoted as Administrative Officer, Grade-I in 1982 and

Senior Administrative Officer thereafter in 1989. The applicant submits that he being holder of the post of Senior Administrative Officer is eligible for payment of Special Pay in terms of the aforesaid O.M. dated 20.8.75. He has made representations (Annexure A-2) in which he had submitted that in accordance with the judgment of the Delhi High Court in LPA No.121/1984 decided on 23.8.1991 (Annexure A-10) and the judgment of this Tribunal in OA No-681/86-Das Raj Bhargava v.U.O.I. & Ors. decided on 5-2-1993 (Annexure A-12), OA No. 2803/92 - U.S. Bisht v.U.O.I. & Ors. decided on 31-1-1994 (Ann.A.13) and O.A.No.1137/94- Shri M.L.Mahna & Ors.v.U.O.I. & Ors. decided on 28.10.1994 (Annexure-A-14), he is also entitled to the special pay of Rs 400/- P.M. w.e.f. 12.6.93 to 12.5.1995 which has not been agreed to by the respondents.

3. Respondents have filed a reply denying the above averments. They have taken the following preliminary objections in the reply - that the judgment of the Delhi High Court dated 23.8.1991 in LPA 121/84 was made applicable and to the persons similarly situated only to the petitioners! Therefore, they submit that the judgment has been implemented only in respect of the petitioners and that the same is not applicable to the applicant. Learned counsel for the respondents also submits that the ^{1/2} main objection for not granting the special pay to the applicant is that he does not belong to any Organised

A service Group / but belongs to an isolated post and therefore, 11

he is not entitled to the special pay claimed. He further submits that the respondents had filed SLP in the Hon'ble Supreme Court in Desh Raj Bhargava's case (OA No 681/86).

The applicant submits that the SLP in this case has

since been dismissed by the Supreme Court on 9.1.1995, copy of the order placed on record.

4. I have carefully considered the pleadings and arguments advanced by both the parties and seen the records. The relevant portion of the O.M. dated 20.8.1975 reads as follows:-

"The President is accordingly pleased to decide that special pay at the following rates shall be paid to officers of class-I Non-Technical, Technical and Engineering servicemen in Defence Establishments viz, ML&C, LOFS and MES when they are posted to their Headquarters Organisations i.e. to the highest office administratively in charge of the Defence Establishment: Viz (1) Director of Military Lands and Cantonments, (2) the office of the Director General of Ordnance Factories, Calcutta (3) E-in-C's Branch, Army HQ.

Rate of special pay

i) Officers in the senior scale (Revised scale) Rs 1100-1600 1300-1700	Rs 200/-per month
ii) Officers in the Junior Administrative/Intermediate Administrative grades (Revised scale Rs 1500-1800, 1500-2000 and 1800-2000.	Rs 300/-per month

5. It is an admitted fact, that the applicant is Senior Administrative Officer in the grade of Rs 3000-4500 (pre-revised scale of Rs 1100-1600) and has been working

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with the Military Engineering Service (MES) from 12.6.1993 to 12-5-1995. The rate of special pay mentioned in the O.M. has since been revised from Rs 200/- to Rs 400/- per month w.e.f. 1.1.1996. The arguments of the respondents that the applicant does not belong to an Organised Service has not found favour with the Delhi High Court in its judgment in LPA 121/84 dated 23.8.1991. I am in respectful agreement with the reasons given by the High Court. A mere perusal of the O.M. makes it clear that special pay was to be given to all officers of class I whether non-technical, technical or Engineering services in Defence Establishment viz ML&C, IOFS and MEs when they are posted to their Headquarters or Organisation i.e. to the highest officer administratively in charge of the Defence establishments. It is also not a case of the respondents that the applicant does not fulfil these conditions, namely, that he is Senior Class-I officer in the grade of Rs 3000-4500 and working with the MES Headquarters. I, therefore, do not see any justification why the special pay allowed to such officers under the relevant O.M. should not be granted to the applicant.

6. Apart from this, it is also noticed that a number of other applicants in similar situations had come to this Tribunal in OA Nos 681/86, OA 2803/92

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and DA 1137/94, wherein the Tribunal has granted the prayer of special pay. This is also in accordance with the judgement of the Delhi High Court in LPA 121/84 dated 12.8.1991. In DA 2803/92 U.S. Bhist V UOI and Ors. the applicant in that case was also an erstwhile Senior Administrative Officer working under the Engineer-in-Chief in the Army Headquarters (MES). The present applicant is similarly situated and the facts are also on all fours. In the light of these judgements, the stand of the respondents that the applicant does not belong to an Organised service and, therefore, not entitled to the special pay, has to be summarily rejected as there appears to be no reasons whatsoever to deny the applicant the benefits which have been given to other similarly situated persons covered under the relevant OM.

7. For the reasons given above, this application succeeds. The respondents are directed to pay the arrears of special pay to the applicant from 12.6.93 to 12.5.95 or till the date when he was holding the post of Senior Administrative Officer in the Army Headquarters (MES) in accordance with the OM dated 20.8.75 as amended from time to time, in accordance with law. The arrears of special pay shall be paid to the applicant within three months from the date of receipt of a copy of this order. No order as to costs.

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)