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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2695/1996

New Delhi this the 1st day of June, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Shri H.S.Arora S/o late Shri Munshi Ram
R/o A/G/128, Shalimar Bagh
New Delhi-110 053. ... Applicant

(By Advocates Shri Surinder Singh)

-Versus-

1. Union of India, through
Secretary,
Ministry of Defence
South Block, New Delhi-110 011.
 2. Army Headquarters
A.G.'s Branch,
D.G.M.S.(Army)
Directorate of Medical Services
L Block,
D.H.Q.P.O.-110 011. ... Respondents
(In both the OAs)
- (By Advocate Shri K.R.Sachdeva)

O R D E R (ORAL)

V.K. Majotra, AM:-

Applicant has assailed the order dated 5.12.1996, Annexure A1 whereby his application dated 24.9.1996 wherein he had requested for fixation of his pay and payment of arrears with effect from 1.1.1973 to 31.8.1987 has been turned down by the Army Headquarters. The applicant, is a Draftsman Grade II serving with Station Health Organisation, Delhi Cantt under Ministry of Defence in the pay scale of Rs.425-700 (pre revised). The aforesaid scale was accorded to all Draftsmen Grade II of the Ministry of Defence vide letter dated 22.9.1987 which in turn was based on Department of Expenditure OM dated 11.9.1987 on the recommendation of the Third Central Pay Commission pay scale of Draftsmen. The aforesaid OM

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of Ministry of Defence was based on the Supreme Court judgement delivered on 1.5.1985 in Civil Appeal No.3121 of 1981- P.Savita and others vs. Union of India which accepted the appeal and allowed replacement of scale of Rs.425-700 to those Draftsmen also who had previously been given the scale of Rs. 330-560 on the basis of the said recommendation of the Pay Commission. By the Annexure A/2 dated 22.9.1987, the Ministry of Finance after considering the question of extension of the benefit of the aforesaid judgement of the Supreme Court decided that the Draftsmen who were placed in the pay scale Rs.330-560 based on the recommendations of the Third Central Pay Commission be given the scale of Rs.425-700 notionally from 1.1.1973 and actually from 1.9.1987. In compliance of this decision, vide Annexure A/3 dated 1.1.1993, Ministry of Finance while fixing applicant's pay as Draftsman Grade II stated that consequential benefits of the pay scale of Rs.425-700 (pre-revised) would be allowed to him from 1.9.1987 after fixation of his pay notionally on 1.1.1973. Accordingly arrears of pay and allowances were accorded to him from 16.9.1968 to 31.12.1972 and from 1.9.1987 as indicated above. According to the applicant, he is similarly situated to one Shri Lalita Singh, Draftsman of A.M.C. Centre who in compliance of the judgement of Allahabad Bench of the Tribunal was allowed the benefit of fixation of pay and pay of arrears with effect from 1.1.1973 to 31.8.1987 in the scale of Rs.425-700. The applicant has alleged that denial of the payment of arrears to him is discriminatory in nature and hits the equality clause of the Constitution. The applicant has sought arrears of pay with effect from 1.1.1973 to 31.8.1987 in the scale of Rs.425-700.

3. In the counter, the respondents have stated that the pay of the applicant has been fixed in the scale of Rs.425-700 notionally with effect from 1.1.1973 and actually with effect from 1.9.1987 by Ministry of Defence letter dated 1.1.1993, Annexure R-I. The respondents have contended that the case of Shri Lalita Singh was an individual case and cannot be made applicable to the applicant.

4. The learned counsel ~~counsel~~ for both the parties have been heard. We have also perused the material available on the file. The learned counsel of the applicant drew our attention to the case of Shri Lalita Singh, Draftsman Grade II of the A.M.C. Centre and Shri V.K.Srivastava, Draftsman Grade II who had moved the Allahabad and the Lucknow Benches of the Tribunal respectively in ^{OA} Case No.1562/1988 and OA No.628/1995 respectively. Both the Draftsmen were allowed the benefit with effect from 1.1.1973 to 31.8.1987 vide Ministry of Defence letter dated 29.6.1994 and 12.8.1998. The learned counsel for the applicant has maintained that he is a similarly placed Draftsman Grade II as the aforesaid persons and is eligible to avail of the same benefits as have been granted to them. According to him, Commanding Officer S.H.O. Delhi Cantt. had recommended the case of the applicant on similar terms as in the case of V.K.Srivastava. However, ~~thereas~~ applicant's earlier application dated 24.9.1996 stands rejected by respondents letter Annexure A/1 dated 5.12.1996 without any positive response. The learned counsel for the respondents has reiterated the stand taken in

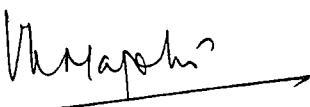
the counter that the benefit sought in the present case has been extended to individual cases like that of Shri Lalita Singh based on the decision of the Allahabad Bench and cannot be extended to other similarly situated persons.

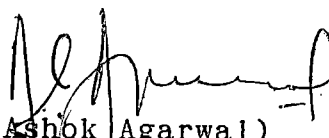
4. Whereas in the case of P.Savita (supra), the Hon'ble Supreme Court had allowed relacement of the scale of Rs.425-700 to those Draftsman also who were initially in the pay scale of Rs.330-560 on the basis of the recommendations of the Third Central Pay Commission notionally with effect from 1.1.1973 and actually with effect from 1.9.1987 only as per respondents' letter Annexure A/2, later on based on the case of Shri Lalita Singh OM dated 11.9.1987 of Ministry of Finance allowed the arrears of pay and allowances to him notionally with effect from 1.1.1973 actually with effect from 1.9.1987 in pursuance of the court decision in that case.

5. The applicant's case is identical to the case of Shri Lalita Singh and he must be accorded the benefit of scale of Rs. 425-700 with effect from 1.1.1973 along with arrears of pay between 1.1.1973 and 1.9.1987. The attitude of the Government in denying this benefit to the applicant as in the case of Shri Lalita Singh who has received the relief from the court of law vis-a-vis the applicant is highly deplorable. The Government is ^amodel employer and it does not behove of good governance ^{- must} to create ^{discrimination} ~~discrimination~~ in treatment of similary placed employees. When Shri Lalita Singh, Draftsman Grade II has been accorded a particular scale with consequential benefits effective

from 1.1.1973, in all fairness the Government should not have denied these benefits to the applicant who is similarly situated. It is also expected from the Government that they should extend these benefits not only to the applicant but also to all similarly placed Government servants. This will not only ^{meet} out a judicious treatment to a large number of similarly placed Government officials but also prevent them from coming to the courts for seeking relief which should ordinarily be considered and extended by the Government.

6. For the reasons discussed above, we find merit in the OA of the applicant which is allowed. We direct the respondents to release arrears of pay in the scale of Rs.1400-2300 to the applicant with effect from 1.1.1973 to 31.8.1987. No costs.


(V.K. Majotra)
Member (A)


(Ashok Agarwal)
Chairman

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