

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2250/97

New Delhi this the 24th day of July, 1998. (9)

Hon'ble Sh. T.N. Bhat, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. K.L. Batra,
S/o Sh. J.D. Batra,
R/o 90/11A, S.F. Malviya Nagar,
New Delhi. Applicant

(through Sh. U. Srivastava, advocate)

versus

1. Union of India through
the Secy. Ministry of
Defence (Finance),
North Block, New Delhi.

2. The Financial Advisor,
Defence Services,
Ministry of Defence (Finance)
South Block,
New Delhi.

3. Controller General of Defence
Accounts, West Block, V,
R.K. Puram, New Delhi.

4. Controller of Defence Accounts,
R&D L Block,
New Delhi. Respondents

(through Sh. D.S. Mahendru, advocate)

ORDER

Hon'ble Sh. S.P. Biswas, Member(A)

The applicant, a retired Assistant Controller of Defence Accounts, under the respondents is aggrieved by A-1 order dated 9.5.97 by which the respondents have showed their inability to extend the benefit of the judgement in the case of K.S. Rangaswamy Vs. U.O.I. & Ors. in OA-2356/93 decided by this Tribunal on 28.11.94.

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2. The issue raised in this O.A. lie in a very narrow compass. The applicant was promoted to Indian Defence Accounts in the office of CDA (R&D) New Delhi on 16.8.94 in the scale of Rs.2000-4000/-. Though the applicant was not given the charge of any post in the Junior Time Scale of promotion, but he was directed by the respondents to work on the post of Group Officer and also shouldered responsibilities thereof. This post of the Group Officer is in a Senior Time Scale carrying the pay scale of Rs.3000-4500/-. The applicant retired from the services on 31.1.95. The basic claim of the applicant relates to offering him the benefits of higher pay relatable to Senior Time Scale from the date he was asked to work as Group Officer. Other ancillary benefits have also been sought for.

3. The respondents have not denied of having utilised the services of the applicant herein in discharging the duties of Senior Time Scale Officer. It has been mentioned that since there has been no objection by the applicant at that point of time, he is estopped from raising any such claim at this stage. It has also been submitted that since the matter is pending adjudication before the High Court of Delhi in L.P.A. No.50/81, the plea of the applicant has been rightly rejected and he has been accordingly advised to await decision of the case from the High Court.

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4. It would be wrong to say that the applicant has no cause of action. This is because the respondents have decided to communicate their denial by their impugned order at A-1 dated 9.5.97. When benefits of similarly placed persons are involved, the law laid down in the case of Amrit Lal Berry Vs. Collector of Central Excise (1975(4) SC 714 will be applicable.

5. We have had the opportunity of perusing the records as well as the decision of this Tribunal in the case of Rangaswamy (supra). That was the case where the applicant therein was promoted to the Indian Defence Accounts Service and was posted as Assistant Controller of Defence Accounts which was in Group-A service of the department as in the present case of the applicant herein. The aforesaid O.A. was disposed of with a direction to the respondents to fix the pay of the applicant in the Senior Time Scale from the date he was appointed to the IDAS. The respondents were also directed to pay the arrears of pay which were due to him for having worked in the Senior Time Scale for the period he had worked. Refixation of the pension of the applicant therein was also directed.

6. We do not find any stay given by the Hon'ble High Court in the LPA No.50/81. In view of the fact that the respondents have not denied having taken

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the work from the applicant and in the background of the decision of this Tribunal in the case of Rangaswamy (supra), we allow the O.A. with the following directions:-

(i) The respondents shall fix the pay of the applicant in the Senior Time Scale from the date he was appointed to IDAS i.e. 16.8.94 when admittedly he was asked to work in the post of Senior Time Scale until he retired on 31.1.95.

(ii) The respondents shall also pay arrears of salary and allowances due to the applicant for the afore-mentioned period, refix his pension on the basis of such fixation.

(iii) These directions shall be complied with within a period of 4 months from the date of receipt of a copy of this order.

7. We make it clear that the applicant shall refund the amount in case the decision in L.P.A. No. 50/81 goes in favour of the respondents.

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8. The application is disposed of as
aforesaid. No costs.

S. P. Biswas
(S. P. Biswas)
Member (A)

T. N. Bhat
24.7.98
(T. N. Bhat)
Member (J)

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