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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

G.A. No. 2546/94

New Delhi, dated the 17th May, 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Shri V.P. Singh,  
8/o B-15, MIG Flats,  
Chitrakoot Enclave, Loni Road,  
Shahdara,  
Delhi  
(By Advocates: Shri U.S. Bisht)

.... APPLICANT

VERSUS

1. Union of India through the  
Comptroller & Auditor General of India,  
New Delhi
2. Director General of Audit,  
Defence Services, Brassay Avenue (L II Block),  
New Delhi,
3. Deputy Director of Audit, Defence Services,  
T-59, Tigris Road,  
Delhi Cantt.

(By Advocate: Shri M.K. Gupta)

.... RESPONDENTS

JUDGEMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this application Shri V.P. Singh, Sr. Audit Officer, Office of the Dy. Director of Audit, Defence Services, New Delhi has impugned the order dt. 26.9.94 issued by the Respondents (Annexure A.1) pursuant to the Tribunal's judgement dated 3.6.94 in OA 719/93 V.P. Singh Vs. UOI & Ors.

2. In that OA the applicant had prayed for stepping up of his pay to Rs. 620/- p.m. w.e.f. 26.2.73 with the next date of his increment as on 1.2.74, together with payment of arrears. By judgement dated 3.6.94 the Respondents were directed to consider the applicant's case in the light of the relevant rules and instructions including Ministry of Finance (Defence) letter dated 21.9.78 and disposed of the applicant's claim by means of a reasoned order under intimation to the applicant within four months from the date of receipt of copy of the judgement. Accordingly by their letter dated

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26.9.94 (Annexure A.1) they enclosed the detailed order given reasons why the applicant's pay cannot be stepped up, and it is that order which the applicant impugned.

3. In their detailed order the Respondents have pointed out that on passing of SAS Examination the enhanced rate of increment was admissible to UDCs/Stenographers/LDCs drawing pay under CCS (RP) Rules, 1960. These orders were modified on the recommendation of the 3rd Pay Commission and a new scheme of granting of Special Pay of Rs.20/- on passing of SAS Examination w.e.f. 1.1.73 was introduced vide Finance Ministry's letter dated 3.1.75 addressed to CAG of India who in turn vide their letter dated 29.1.75 clarified that such Special Pay would also be admissible to SAS Auditors who had passed the Examination before 1.1.73, but were not promoted, as S.O. as on 1.1.73. CAG's Office vide their letter dated 19.3.77 issued instructions that Senior officials on passing SAS Examination and had been promoted as S.O. before 1.1.73 but who happened to draw less pay than the junior officials promoted after 1.1.73 as a result of grant of a fixed amount of Special Pay of Rs.20/- p.m., should be granted enhanced rate of pay equal to that of juniors. It was clarified that conditions prescribed in Ministry of Finance letter dated 18.7.74 should also be fulfilled by the seniors and juniors. These conditions were;

- (a) Junior/Senior officials should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre;
- (b) Unrevised and revised scales of pay of the lower and higher posts in which they were entitled to draw pay should be identical; and
- (c) the anomaly should be directly as a result of application of provisions of FR 22C in the revised scale. For example if even in the

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lower posts the junior officials were drawing more pay in the un-revised scale than the seniors by virtue of fixation of pay under normal rules or advance increments granted to them. Provisions contained in this decision need not be invoked to step up the pay of the senior official.

4. The order further went to say that Shri Krishan Lal on passing the SAS Examination in November 1972 and was promoted to the grade of S.O. w.e.f. 26.2.73 and as such he was given the benefit of Special Pay of Rs.20/- sanctioned vide CAG's letter dated 29.1.75 as he was waiting for his promotion as on 1.1.73. The pay of three other officials viz. S/Shri A.K. Banerjee, Jitendra Mohan and R.P. Dua were stepped up as all of them senior in service to Shri Krishan Lal and they had drawn more pay in Auditor's cadre than Shri Krishan Lal. More over all the three persons were promoted as Selection Grade Auditors.

5. The order went on to add that Ministry of Finance (Defence) letter dated 21.9.78 addressed to the CAG had clarified that SGA on passing of SAS Part II Examination on or after 1.1.73 who happened to draw higher rate of pay on promotion as S.O. than their seniors (i.e. Sr. SGA) who passed SAS Part II Examination prior to 1.1.73 in such case the pay of seniors was to be stepped up to the level of juniors, who had passed the SAS Part II Examination after 1.1.73.

6. Provisions regarding Special Pay of Rs.20/- on passing SAS Part II Exm. after 1.1.73 had already been made applicable earlier in the IA&AS Deptt. by CAG's letter

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dated 29.1.75 and dated 5.4.75. For removal of anomaly instructions were issued vide CAG's letter dated 19.3.77. The effective cases were examined and 12 cases were sent to CAG's office for stepping up of pay. Orders for stepping up of pay were issued in 10 cases. Two persons were not given the benefit as they were not Selection Grade Auditors. The orders further said that Shri V.P. Singh had represented for stepping up of pay equal to that Shri Krishan Lal vide his letter dated 18.12.86 and was replied vide letter dated 16.4.87 that he didn't fulfil the conditions of Finance Ministry's letter dated 18.7.74 that is why his stepping up of pay could not be allowed. After giving service details of S/Shri Krishan Lal, A.K. Banerjee, Jitendra Mohan and R.P. Dua vis-a-vis the applicant V.P. Singh the order further went on to add that Shri Krishan Lal was promoted as S.O. from SGA scale whereas the applicant Shri V.P. Singh was promoted from the Auditors' scale. Shri Krishan Lal was drawing more pay than Shri V.P. Singh in the Auditors' scale during the period November 1960 to April, 1967 the period immediately before the promotion of the applicant Shri V.P. Singh to S.O.'s post and as such the conditions laid down in Finance Ministry's letter dated 18.7.74 were not fulfilled and hence his pay could not be stepped up to the level of Shri Krishan Lal.

7. The grounds taken in this O.A. are that the applicant is similarly placed as his two junior colleagues namely S/Shri J. Mohan and R.P. Dua whose pay was stepped up from Rs.580/- to Rs.620/- w.e.f. 26.2.73 and denial of similar consideration to the applicant would amount to invidious discrimination. Reliance in this connection has been placed on the CAT Ernakulam Bench division dated 26.10.93 in OA 342, 337 and 1134 of 1993.

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8. The respondents in their reply have averred that stepping up of pay is permissible only where there is an anomaly and while doing so the conditions prescribed in Finance Ministry's O.M. dated 18.7.74 have to be met. In the present case, these conditions have not been met. Regarding stepping up of the applicant's pay to that of Shri Krishan Lal it has been pointed out that he was promoted as S.O. from SGA's scale whereas the applicant was promoted from Auditors scale. Shri Kishan Lal was drawing more pay than the applicant in the Auditors scale during November 1960 - April, 1967, i.e. till immediately before the applicant's promotion as S.O. and as such his pay cannot be stepped up to Krishan Lal. Furthermore, the pay of S/Shri A.K. Banerjee, J. Mohan and R.P. Dua were stepped up as all of them were senior to Shri Kishan Lal and they had drawn more pay than Kishan Lal in auditors' cadre, but the applicant's case is not comparable, as he is not senior to S/Shri A.K. Banerjee, J. Mohan and R.P. Dua nor was he an S.C.A.

9. I have given careful consideration to the rival contentions. The applicant's case succeed only if he can establish that all the three conditions prescribed in Finance Ministry's O.M. dated 18.7.74 are fully satisfied.

10. It is difficult to accept the applicant's contention as stated in his rejoinder that the <sup>new</sup> general orders of 18.7.94 are not applicable in this case. In fact the applicant states in his rejoinder that he is basing his case on those of S/Shri J. Mohan and R.P. Dua but, they were given the benefits of stepping up of pay in terms of those very orders of 18.7.94, because they were senior to Shri Kishan Lal, and fulfilled the conditions prescribed in those orders. The fact that they were senior in service to Shri Kishan Lal is borne out by the statement in the impugned order dated 26.9.94 and from that same statement it is clear that the applicant is not senior in

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service either to Shri Kishan Lal or S/Shri A.K. Banerjee, J. Mohan and R.P. Dua. In fact the respondents has specifically stated in their reply that the applicant is junior in service to them, to which there is no specific denial by the applicant in his rejoinder. That being the position, manifestly the conditions prescribed in the <sup>1<sup>st</sup> general</sup> ~~boomed~~ order of 18.7.94 have not been fulfilled, and under the circumstances, the relief prayed for by the applicant cannot under law be granted to him. In that background the CAT, Ernakulam Bench division dated 29.10.93 relied upon by the applicant does not help him.

11. In the result no interference in this matter is warranted and this O.A. fails. It is accordingly dismissed.  
No costs.

*Adige*  
(S.R. ADIGE)  
Member (A)