

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

10

O.M. NO. 624/94

New Delhi, the 22nd the Day of November, 1994.

Hon'ble Mr.B.K.Singh, Member (A)

Shri D.P.Verma  
S/o Late Shri Cowardhan Dass  
aged 57 years, resident of  
Flat No.3341, sector-D, Pocket-3,  
Vasant Kunj, New Delhi-110 070  
working as Executive Engineer in  
E-in-C's Branch, Army Headquarters  
DHQ, P.O. Rajaji Marg  
New Delhi-110 011.  
By Advocate: ---- Shri U. S. Bisht

.....Applicant

Versus

1. Secretary  
Ministry of Defence  
New Delhi-110 011.

2. E-in-C's Branch  
Kashmir House, DHQ P.O.  
Rajaji Marg  
New Delhi-110 011.

3. C.A.O. & Jt.Secy.,  
Ministry of Defence  
C-II Hutmants  
New Delhi-110011

.....Respondents

By Advocate: Shri V.S.R. Krishna

O R D E R

Hon'ble Mr.B.K.Singh, Member(A)

1. No order in this application has been impugned. The applicant claims arrears on the basis of the orders at Annexure A-4, the arrears of three advance increments on the basis of the circular issued vide Annexure A-4 dated 22.2.1982. The brief facts are that the applicant is a degree holder in engineering and joined as B/R Gr.I in 1960. He was recruited to MES as a direct entrant B/R Gr.I since he was holding an engineering degree at the time of his recruitment. As per Recruitment Rules, the

qualification for direct recruitment to B/R Gr.I is a degree in engineering. A circular was issued by the Respondents vide their letter No.96850/V-1967/DTTA/864/D(Civ-1) dated 4.2.1969. The subject matter of this circular is grant of increments to defence employees on passing Telecommunications/Aeronautical Engineering Course or acquiring an engineering degree. This is Annexure A-1 of the paper book. A circular has been issued in the name of the President and it stipulates that a civilian employee paid from the Defence Services, who acquires a degree in engineering or an equivalent qualification, such as the Associate Membership of the Institution of Engineers (India) or the Graduateship of the Institution of Telecommunication Engineers (India) or the Associate Membership of the Aeronautical Society of India which is among the qualifications prescribed for recruitment to the Central Engineering Services Class I, while he is serving in a non-gazetted technical/scientific grade, shall have his pay re-fixed, with effect from the date on which he acquires the above mentioned qualification at the stage in his scale of pay which would give him three advance increments.

2. A careful perusal of this order clearly indicates that it is in the form of an incentive to those employees serving in subordinate engineering services and/or diploma holders on acquisition of a higher degree as mentioned above. They would be eligible for grant of three advance increments from the date they acquire the degrees mentioned above. Financial benefits were allowed even to those who acquired such degrees from 1.12.1968 i.e. the circular was issued with retrospective effect, in case of those non-degree holders serving in B/R Gr.II and had acquired the degrees.

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3. It is clear that this circular has no application in the instant case since the applicant Shri D.P.Verma joined as B/R Gr.I and was a degree holder at the time of his entry in the service. The applicant, therefore, is not entitled to three advance increments since he had not done any degree or qualifications other than those which he already possessed as per recruitment rules. The applicant already got the benefit of a degree in engineering by being recruited to the post of Supdt. B/R Gr.I. The post carried more pay and benefits than that was admissible to a diploma holder who was being recruited to the post of Supdt. B/R Gr.II. As per recruitment rules, it takes a minimum of 10 years for a diploma holder serving in B/R Gr.II to become B/R Gr.I, if he is otherwise eligible. The applicant already enjoyed the pay, perks and status by becoming B/R Gr.I as a result of ~~not~~ having possessed a degree in engineering at the time of his recruitment. Thus this case is not covered by the circular issued on 4.2.1969. Thus the claim of arrears of 3 advance increments on the basis of this circular, as prayed for in the relief clause, cannot be granted to him.

4. The relief(s) prayed for relate to the payment of arrears arising out of grant of three advance increments w.e.f.1.12.1960 with consequential benefits and award of costs on the arrears due to him. On notice, the respondents contested the application and the grant of relief(s) prayed for. I heard the Learned Counsel Shri U.S.Bisht for the applicant and Shri V.S.R.Krishna, for the respondents and perused records of the case. As already stated, the benefit of the circular dated 4.2.1969 clearly is not admissible to the applicant. The language of the circular is absolutely clear and unambiguous and it does not cover the case of the applicant. It is in the

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form of an incentive to the diploma holders serving as B/R Gr.II who would be eligible for three advance increments from the date they acquire a degree in Telecommunications/Aeronautical Engineering or for acquisition of any other engineering degree. The benefit was extended to such employees only w.e.f. 1.12.1968 and cover cases of those diploma holders who acquire such degrees even prior to the issue of the circular dated 4.2.1969. The learned counsel for the applicant placed reliance on the Annexure-A-4 where his name is mentioned alongwith that of Shri Om Prakash Khosla who also joined as Supdt B/R Gr.I alongwith him and who also has been permitted to draw three advance increments.

5. The Learned Counsel for the applicant further produced appendix to CPRO 86/71 and appendix to CPRO 87/71. Appendix to CPRO 86/71 also refers to the grant of increments to defence employees on passing Telecommunications/Aeronautical Engineering Course or acquiring an engineering degree. The nuances and connotations of the words used in both the circular of 4.2.1969 and also of 2.6.1971 clearly indicate that this benefit will be extended to persons passing Telecommunications/Aeronautical Engineering Courses or acquiring an engineering degree. The circular issued on 4.6.1971 while referring to previous circular of 4.2.1969 stipulates that the President is pleased to decide that the orders contained in Govt. of India, Ministry of Defence letter No.96850/V-1967/DTTA/884/D(Civ-1) dated 4.2.1969 will be applicable to persons who possess the prescribed qualifications at the time of their entry in government service in non-gazetted technical/scientific grade. This circular, produced by the learned counsel at the time of

hearing also clearly shows that the benefit of the circular of 4.2.1969 was extended to all non-gazetted technical/scientific grade i.e. diploma holders who possessed this degree when they entered the subordinate service as diploma holders i.e. when they joined as Supdt. B/R Gr.II. The two circulars of 4th February 1969 and 2nd June 1971 have to be read together and harmoniously. The rule of construction clearly points out that if one reads these circulars together and harmoniously, these circulars also relate to those diploma holders who did not possess an engineering degree when they joined Supdt. Gr.II. Para 2 of the circular dated 2.6.1971 is absolutely clear that the financial benefit of these orders to non-gazetted technical/scientific grade would be admissible from 1.12.1968 or from the date of their appointment whichever is later. The previous benefit of the circular dated 4.2.1969 gave the benefit only from 1.12.1968. This letter has been issued with the concurrence of M/o Finance(Defence) vide LO No.2794-PB of 1971. Reliance on this circular also doesn't help the case of the applicant since it is applicable only to diploma holders working in non-gazetted technical/scientific grade. The applicant was never working in non-gazetted technical/scientific grade and as such he is not entitled to the benefit of three advance increments. The last circular No. RD/Pers./8/95770/2136/4992/D(Civ-I), Govt. of India, M/o Defence dated 31.12.1991 while reiterating grant of increment to defence employees on passing Telecommunications/Aeronautical Engineering Course or acquiring an engineering degree, extends this benefit to other senior scientific assistants of Defence Research & Development Organisation, who had obtained favourable judgement from Principal Bench of CAT, New Delhi. This circular also does not extend the benefit to Class I officers who joined as such having an engineering degree since they did not acquire

or pass any further degree since there was no requirement for them to do so.

6. The learned counsel for the respondent vehemently argued that apart from there being no merits in the application, it is also barred by delay and latches. A person who joined his post as B/R Gr.I in 1960 is taking up a matter of 1969/1971. In this connection, he referred to the judgements of the Hon'ble Supreme Court in a number of cases. CAT Act lays down a total period of 1½ years only after filing a representation.

7. A perusal of the records clearly shows that no representation has been filed by the applicant for grant of 3 advance increments since he knew that he is not entitled to these increments. The Hon'ble Supreme Court in the case of the State of Punjab Vs. Gurudev Singh (1991) 4 ACCI has laid down that a party, aggrieved by an order, has to approach the court for relief of declaration that the order against him is inoperative and not binding upon him within the prescribed period of limitation since after the expiry of the statutory time limit, the court cannot give a declaration sought for. The same view has been reiterated in the case of B.K.Mehra Vs. Secretary, M/o Information & Broadcasting, Delhi ATR 1986(1).

8. It lays down that Tribunal is not vested with any power or authority to take cognizance of a grievance arising out of an order made prior to 1.11.1982. The limited power that is vested to condone the delay in filing an application within the period prescribed is under section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal. In the instant case, there is no order which affects the application

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16

adversely and all the circulars which have been issued right from 4.2.1969 have no application to his case.

9. Thus the application is hopelessly and totally barred by delay and laches. Delay defeats a right and if right is defeated, remedy is also lost. Thus the application is dismissed both on grounds of merits and also on grounds of delay and laches, leaving the parties to bear their own costs.

(B.K.SINGH)  
MEMBER(A)