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Central Administrative Tribunal
Principal Bench, New Delhi.

DA-831/94
MA-3145/95

New Delhi this the 19th Day of March, 1996.

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

Sh. M. L. Mahna,
R/o House No. 2,
Kiran Vihar,
Delhi-110092.

Applicant

(through Sh. U. S. Bisht, advocate)

versus

1. The Secretary,
Ministry of Defence,
New Delhi-110011.

2. Engineer-in-Chief's Branch,
Kashmir House, DHQ P. O.,
Rajaji Marg, New Delhi-110011.

3. Chief Administrative Officer
and Jt. Secretary,
Ministry of Defence,
C-II, Hutments,
New Delhi-110011.

Respondents

(through Sh. V. S. R. Krishna, advocate)

ORDER (ORAL)

delivered by Hon'ble Sh. B. K. Singh, Member (A)

The reliefs prayed in this O.A. are:-

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- (i) Extension of the benefit of the Hon'ble Tribunal's judgement dated 13 November, 1992 to the applicant.
 - (ii) Directions to the respondents to fix the pay of the applicant in accordance with concordance Table of the orders contained in the Ministry of Defence O.M. No. 2(18)/75/D(Civ-1) dt. 12.1.76 with all consequential benefit including arrears of pay, re-fixation of pay in the grade of PBS D w.e.f. 6.6.88, recomputation of pension, gratuity and commutation of pension as well as encashment of earned leave and payment of arrears thereof.



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(iii) Award interest @ 12% on arrears as in relief No.11 above."

On notice the respondents contested the application and grant of reliefs prayed for.

Hoard the learned counsel for the parties and perused the record of the case.

It is a fact that in an identical case, relief was granted initially by the Delhi High Court in W.P.No.887/83 (K.R. Swami Vs. Union of India) decided on July 11, 1984 and this Single Bench decision was affirmed by Delhi High Court in L.P.A. No.121/84 decided on 23.8.1991.

The matter relates to fixation of pay and promotion from the rank of B.S.O. to the rank of S.B.S.O. Similarly situated persons approached the Principal Bench of this Tribunal by filing Q.A. No.211/86 and Q.A.No.498/86 (Lakshmi Narayana & Ors. Vs. Union of India & S.N. Son Gupta Vs. Union of India). In view of the identical decision taken by the Principal Bench, by circular dated 14th December, 1993, orders were issued fixing their pay in pursuance of the directions issued by the Delhi High Court and the Principal Bench of this Tribunal, making the payment conditional by inserting clause (5) to the following effect:

"5) The above officers are required to give an undertaking that they would refund the amount paid to them on account of pay fixation under Concordance Table if the case is decided in favour of Union of India in the SLP filed by the Government in the Supreme Court against the CAY judgment in question."

The judgement of the Tribunal in DA-211/86 (Lakshmi Naryana & Ors. Vs. Union of India) and



OA-498/86 (S.N. Son Gupta Vs. Union of India) has since been stayed. The Hon'ble Supreme Court have modified the stay and a copy of the modified order is enclosed with MA-3145/95 which is extracted below:-

"Having heard counsel, we modify the ad-interim order by directing that the payment may be made in terms of the Government order in the Ministry of Defence, New Delhi, dated 14.12.93 Annexure-I, to the counter-affidavit of respondent No.4 dated 17.8.94 filed on 31.8.94. The I.As. are disposed of."

In an identical case, the learned counsel for the applicant has also enclosed a copy of the judgement of the Hon'ble Supreme Court in case of Girdhari Lal Vs. Union of India & Ors. (Civil Appeal of 1996 arising out of S.L.P.(C) No.14005 of 1992). The Hon'ble Supreme Court directed the respondents to grant the petitioner the benefit of refixation of pay on notional basis as held by the Hon'ble Supreme Court in case of M.R. Gupta Vs. U.O.I. adding the benefit of refixation of pay due to him in order to enable him to draw higher pension, gratuity and commuted value of the pension. In tune with this obiterdicta, the respondents are directed to grant the benefit of refixation of pay on notional basis from the date it was due and calculate the pension, gratuity and commuted value of pension on the basis of the revised pay admissible to him subject to his furnishing an undertaking to the effect that if the judgement of the Hon'ble Supreme Court goes in favour of U.O.I. he would refund the entire amount earned by him as a result of refixation of pay. The case is disposed of accordingly but without any order as to costs.

/vv/

(B.K. Singh)
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