

(X)
Central Administrative Tribunal, Principal Bench

Original Application No.2220 of 2000
M.A.No.2646/2000

New Delhi, this the 11th day of July, 2001

Hon'ble Mr.Justice Ashok Agarwal,Chairman
Hon'ble Mr. M.P.Singh,Member(A)

1. Shri Tej Ram
S/o Lt. Shri Kirori Mal
R/o 677, Jatav Basti
V & P.O. Bijwasan
New Delhi-61
2. Hem Raj
S/o Lt. Shri Moti Lal
R/o Qr.No.51/1, New CVD Lines
Delhi Cantt.
3. S.C. Jain
S/o Lt. Shri Nand Kishore Jain
R/o WZ-246, Palam Village
New Delhi-45

- Applicants

(By Advocate: Shri M.K.Gupta)

Versus

1. Union of India
The Secretary
Ministry of Defence
New Delhi-1
2. The Director General of Ordnance Services
MGO Branch,
Army Headquarters
DHQ PO
New Delhi-11
3. Army Ordnance Corps Record Office
Post Box No.3, Trimulgherry
P.O. Secunderabad-500015
4. The Commandant
Central Vehicle Depot
Delhi Cantt.
New Delhi-110010

- Respondents

(By Advocate - Shri D.S.Mahendru)

O R D E R (ORAL)

By Mr. M.P.Singh, Member(A)

M.A.No.2646/2000 under Rule 4(5) of C.A.T.

(Procedure) Rules for joining together, is allowed.

2. Applicants have filed this OA under Section 19



(B)

of the Administrative Tribunals Act praying for a direction to quash the letter dated 26.7.2000 and have also sought direction to extend the benefits of the order dated 30.11.94 passed by the Bombay Bench of the Tribunal in OA No.235/94 to the applicants with all its consequences.

3. The brief facts of the case are that the applicants were initially appointed as LDC in the office of respondent no.3 i.e. Army Ordnance Corps Records Office, Secunderabad. They were promoted as UDC in July 1978, February, 1979 and April 1979, respectively. Applicants were further promoted to the next higher grade of Office Superintendent Gr.II in the year 1985 in the pay-scale of Rs.425-700, which was subsequently revised to Rs.1400-2300 w.e.f. 1.1.86. The post of Superintendent Gr.II was a selection post. According to the applicants, Shri Harinder Kumar, UDC was considered for promotion to the said post of Office Superintendent Gr.II but was not selected for promotion to the said grade. According to them, he was getting the basic pay of Rs.464/- w.e.f. 1.3.85 in the scale of Rs.330-560. He, being the seniormost UDC at that time, was also granted special pay of Rs.35/- per month w.e.f. 1.1.88 which was later on increased to Rs.70/- per month.

4. According to the applicants, Shri Harinder Kumar who has been junior to the applicants in the grade of Office Superintendent Gr.II as well as Office Superintendent Gr.I, was promoted to the grade of Office Superintendent Gr.II in the year 1992, was placed at a stage in the scale of Rs.1400-2300 whereby he started



getting higher basic pay than the applicants w.e.f. 17.4.92. The applicants made representations for stepping up of their pay to the level of Shri Harinder Kumar. Their representations were rejected and that is why the applicants are before us claiming the aforesaid reliefs.

5. The respondents in their reply have taken a preliminary objection of limitation. According to them, cause of action had accrued in the year 1992 whereas the OA has been filed in the year 2000. They have also stated that their cases were referred to the higher authorities for consideration but the request of the applicants was not accepted by them. Hence stepping up of pay was not allowed in the applicants' case.

6. We have heard learned counsel for the parties and perused the records.

7. During the course of arguments, learned counsel for the applicants drew our attention to the judgement of the Bombay Bench of the Tribunal in O.A.235/94 (A.D. Bhamburkar vs. UOI & ors. - Annexure A-3). In this case, the Tribunal relying upon the judgement in another similar case, upheld the contentions of the applicant and allowed the pay of the applicant to step up equal to that of his junior. Learned counsel for the applicants has also relied upon the judgement of the Hon'ble Supreme Court in the case of Union of India and ors. vs. P. Jagdish & ors., 1997 SCC (L&S) 701. In this case, the Hon'ble Supreme Court has held that "stepping up should be done in such a way that the anomaly of juniors getting higher salary than the seniors in the promoted



category of Head Clerk would be removed and the pay of the seniors like the respondents would be stepped up to a figure equal to the pay as fixed for their junior officer in the higher post of Head Clerk. This principle of stepping up would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the respondents had not worked in the post to which Rs.35 special pay was attached in the lower cadre. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only as stated above." The aforesaid decision has been followed by the apex court in their judgement in the case of Union of India vs. B.Sarkar, 1999 SCC (L&S) 936.

8. On the other hand, learned counsel for the respondents raised the objection on the ground of limitation. The contention of learned counsel for respondents on limitation is not tenable as the matters relating to pay has a continuous cause of action and, therefore, his contention for taking objection on limitation, is rejected.

9. Learned counsel for the respondents submitted that applicants have made representation in 1997 which was rejected in 2000. He, therefore, stated that payment of arrears to the applicants should be restricted from 1997 onwards and no arrears should be paid from 1992 onwards. The contention of learned counsel for respondents is not accepted as the admitted position is that the applicants have been working as Office Superintendent from 1992



onwards and they were senior to Shri Harinder Kumar ~~and the~~
~~was junior to them but were~~ ~~and was~~ drawing lesser pay. In view of
this, the contention of learned counsel for respondents is
rejected.

10. In view of the above facts and also the judgement of the Bombay Bench and law laid down by the Hon'ble Supreme Court, the OA is allowed and the letter dated 26.7.2000 is quashed and set aside. Respondents are directed to refix the pay of the applicants with effect from the year 1992 when they were promoted to the grade of Office Superintendent Gr.II with all consequential benefits, within a period of three months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member(A)

/dkm/


(Ashok Agarwal)
Chairman