

(16A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 36/1988. DATE OF DECISION: 25-7-1991.

Mani Ram Talwar & Anr. Applicants.

V/s.

Union of India & Ors. Respondents.

CORAM: Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman.
Hon'ble Mr. I.P. Gupta, Member (A).

Shri S.L. Lakhanpal, counsel for the applicants.
Smt. Raj Kumari Chopra, counsel for the respondents.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice U.C. Srivastava, Vice Chairman)

JUDGMENT (CRAL)

The applicants were enrolled in the Army in the EME as NCE on 8.9.1937 and 8.8.1930 and after discharge as Assistant Foreman from there, they were taken as Supervisor Tech. Grade III on 20.4.1959 and 2.3.1959 without any break. They were subsequently promoted as Supervisor Grade II on 5.11.60 and 4.8.1961 respectively and had been holding this post prior to their retirement. They had also been declared quasi-permanent with effect from 1.7.1962. The grievance of the applicants is that no pension has been sanctioned to them and they have been told that their services are not pensionable as they had not been confirmed. Their juniors were subsequently made substantive. They have claimed pensionary benefits under Rule 7, Section IV of the Liberalised Pension Rules, revised from time to time. In the year 1974, the Government of India granted pensionary benefits to all Supervisors Tech. and, as such, the serving personnel in that category were brought on regular establishment, but this provision did not cover those who had retired before 1st April, 1974, although they were similarly placed. According to the applicants, there was no rationale and they could not be deprived of the pensionary benefits which have been allowed to similarly placed employees. In this connection, they have placed reliance on the judgment of the Bombay High Court in the case of ANANT RAO SHUKUL Vs. UNION OF INDIA (No.1161 of 1981).

against which Special Leave Petition (No.16215 of 1985) was dismissed by the Hon'ble Supreme Court of India on 7.5.1985. The Supreme Court held that the view taken by the High Court was perfectly valid. The Bombay High Court held that in view of sub-paragraph (2) of Rule 7 of the Liberalised Pension Rules, the petitioner therein having retired in 1971, it was not a condition precedent for his entitlement to pension that he should have been confirmed in the post, and, as such, he was entitled to the pension under the rules.

2. Smt. Raj Kumari Chopra, learned counsel for the respondents stated that the instant case is distinguishable from the one decided by the High Court of Bombay and is not covered by the spirit of the Government letter dated 4th July, 1974. The distinction no longer exists after the decision in the case of D.S. Nakra Vs. Union of India. We are also of the view that there was no rationale in the discrimination of those retired before 1st April, 1974 and any such discrimination is violative of Article 14 of the Constitution of India. Accordingly, we allow this application and direct the respondents to pay the pensionary benefits to the applicants as has been done in the case of Anant Rao Shukul Vs. Union of India, within a period of three months from the date of communication of this order. There shall be no order as to costs.

I.P. Gupta

(I.P. GUPTA)
Member(A)

U.C. Srivastava

(U.C. SRIVASTAVA)
Vice Chairman (J)

25.7.1991.