

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A. No. 1019/88

New Delhi this 29th July, 1994.

Hon'ble Mr. S.R. Adige, Member(A)

P.L.Sharma,

Late Shri Ram Das Sharma,

Stenographer,

Ministry of Human Resource Development,
Department of Youth Affairs and Sports,

Shastry Bhawan,

New Delhi,

By Shri G.D. Gupta, Advocate,

Versus

.....Applicant

Union of India through

Secretary,

Ministry of Human Resource

Development, Department of

Youth Affairs and Sports, 'C' Wing,

Shastry Bhawan,

New Delhi,

.....Respondent

By Advocate Shri M.M. Sudan

JUDGMENT

In this application, Shri P.L.Sharma, Former Stenographer, Ministry of Human Resource Development, Department of Youth Affairs and Sports, New Delhi, has impugned the orders dated 20/5/88 (Annexure-A1) and dated 6/8/87 (Annexure-A2) and prayed that he be declared eligible to the grant of special increments announced in Govt. Order dated 16.7.85 (Annexure-A3) w.e.f. 1.5.86, with consequential financial benefits.

2. Shortly stated, the applicant, who was a Sportsman, had participated in March, 1985 in the National Athletic Championships for veteran athletes held in Nagpur and was awarded three Gold Medals with two Meet Records. He had also attended III Asian Veteran Athletic Championships held in Singapore in April, 1985, where he won three Gold Medals and created an Asian record. The applicant

also represented India at the 6th World Veterans Championships held in Rome in July, 1985. On 16.7.85, the Government of India vide their O.M. No. 36/1/85-Estt. (Pay I) decided to allow certain incentives to Sportsmen and Sportswomen. One of the incentives mentioned in the aforesaid O.M., is the award of increments for achieving excellence in National events and International events. The O.M. authorised one increment to be given for National events and two for International events. These increments ^{would be} continue to be drawn till retirement. They, however, ^{did} not count for any pay fixation or promotion. During April, 1986, the applicant participated in 8th National Veteran Athletic Championship held in Madurai, which was deemed to be of National level, and he won three Gold Medals and created two new Meet Records. When the question of awarding increments in terms of O.M. dated 16.7.85 came, in response to the applicant's representation dated 15.4.86, he was informed on 20.5.86 that the O.M. dated 16.7.85 was not applicable to the Veteran meets. Earlier also on 28.7.87, a similar reply was given to the applicant on his representation dated 15.4.86 on the subject of grant of special increments.

3. In his representation, the applicant mentioned the cases of certain other sportsmen who had participated in the same meets and had been granted increments but ^{it alleged that} he has been denied the same and hence it would amount to discrimination. He accordingly filed this O.A. which came up for hearing before a Single Member Bench. The Tribunal in its judgment dated 25.1.89, accepted the respondents' stand that the

incentives announced in O.M. dated 16.7.85 were not applicable to veterans meet and rejected the application. Thereupon, the applicant filed a review application No. 155/89 in which the main ground urged was that there was error apparent on the face of record since it proceeded on the assumption that the O.M. dated 16.7.85 under which the benefits were claimed by the applicant, did not apply to the veterans. The prayer for reviewing the order dated 25.1.89 was allowed by a Division Bench that order was vacated and it was directed that the O.A. will come up for fresh hearing.

4. I have heard Shri G.D.Gupta, learned counsel for the applicant and Shri M.M.Sudan for the respondent. The main argument advanced by Shri Sudan is that the said O.M. dated 16.7.85 is not applicable to veteran meets because the entire object of granting incentives was to encourage the sportsmen in the younger age group so that they can make efforts to improve their performance in the field of their specialisation.

5. As mentioned above, the Division Bench of the Tribunal in their Order dated 9.8.91 allowing the review application have correctly observed that the O.M. dated 16.7.85 contained no such stipulation that the incentives will be allowed to sports-persons only in the younger age group. Shri G.D.Gupta has correctly argued that the term 'younger' has nowhere been defined, and the restriction of the scope of O.M. dated 16.7.85 to sportsmen in the 'younger age group' by the Tribunal's order dated 25.1.89, was wholly unwarranted as no such restriction was contemplated in the O.M. itself. Moreover, he urged that in the cases of Shri D.R.Mehta and Sh.C.R.Nagar,

UDCs, the Department of Education & Civil Supplies had granted increments to them and, therefore, denial to the applicant would entail hostile discrimination towards him. Shri Gupta urged that if the respondents contended that those employees were not entitled to the benefits admissible in terms of said O.M., but the increments having already been granted, those persons allowed to keep them, there was the case of Shri Chopra who had been allowed to draw increments in consultation with DPAR who had issued the said O.M.

6. Shri Gupta has argued that the O.M. dated 16.7.85 could not be amended by the respondents retrospectively, and sought support from the judgment in Wadhera's case. He has also cited the judgment reported in AIR 1976 SC 1104 in support. He stated that the applicant had been informed that he ^{was} not ~~had~~ entitled to ^{the} incentives ^{2005 A.M.} only after having returned from Madurai, and the respondents were by their action ^{and} ~~were~~ estopped from denying the applicant the benefits of increments.

7. There is considerable merit in Shri Gupta's arguments. It needs hardly any reiteration that laws, rules and regulations have to be interpreted as they are found and nowhere does the impugned O.M. dated 16.7.85 ^{not} state that the incentives contained in ^{it} are restricted to sportsmen in the younger age group. The term 'younger' has nowhere been defined, and if the respondents were of the view that the applicant was not entitled to the benefits in terms of the impugned O.M. dated 16.7.85, they should have informed him before the event, not thereafter.

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Impinged orders dated 28/7/87/6.8.87 and 20.5.88 insofar as it relates to the applicant are set aside. In
89 In the result, this O.M. is allowed. And the
The respondents are directed to grant the applicant
the special increments announced in O.M. dated
16.7.85 w.e.f. 1.5.86 and rectify his pay and
also his pension and grant him the same together
with arrears w.e.f. 1.5.86. These directions
should be implemented within three months from
the date of receipt of a copy of this judgment.
No costs.

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(S. R. ADIGE)
MEMBER(A)

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