

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(9)

RA No.351/92 in
OA No.211/86

Date of decision: 19.2.1993

Shri A.Lakshminarayana & ors. ... Petitioners

versus

The Secretary to the
Ministry of Defence & ors. Respondents

CORAM: - THE HON'BLE SHRI P.K.KARTHA, VICE-CHAIRMAN(J)
THE HON'BLE SHRI B.N.DHOUNDIYAL, MEMBER(A)

For the Petitioner in
the RA .. Mrs.Urmila Sirur,
Counsel.

For the Respondents .. Shri P.H.Ramchandani,
Senior Counsel.

1. Whether Reporters of local papers may be allowed to see the judgement? Y
2. To be referred to the Reporters or not? Y

ORDER

HON'BLE SHRI B.N.DHOUNDIYAL, MEMBER(A): -

This is an RA in OA No.211/86.

2. We have heard the learned counsel for the parties and gone through the records of the case carefully.

3. The Review Application has been filed by Shri K.R.Swami, who was a Member of the Military Engineering Services and retired as Senior Administrative Officer. During the pendency of OA 211 of 1986, he had filed Misc. Petition No.2873/92 on 25.9.92 for impleadment as his & ors, who were the applicants in OA 211/86. Though the said MP was registered on 25.9.92, no order had been passed thereon before the judgement was delivered in OA 211/86, on 13.11.92. On 14.12.92, the petitioner was heard in person and directions were given that the present

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RA will be treated as a fresh application. Shri A. Lakshminarayana and his colleagues were aggrieved by various impugned orders issued from time to time, whereby, the benefits given to other Class I Service of MES by application of concordance table for fixation of their pay had been denied to them. The respondents had done so on the ground that the benefit of concordance table was to be given to Class I officers in 'Established Services', defined as/service where all senior scale posts are filled entirely by promotion of officers in the junior scale. Whereas in the case of Executive Engineers, Surveyors of work, and Architects a junior scale had been prescribed for Class I service, no such scale was prescribed in the case of Senior Administrative Officers (for short SAOs) and Senior Barrack Stores Officers (for short SBSOs). It was held by this Tribunal that on promotion to the Class-I senior scale the concordance table which had been made applicable in the case of other three categories, should be made applicable to SAOs and SBSOs also and for this purpose, the junior scale of Class I i.e. Rs.700-1300, can be notionally adopted in their cases also. This judgement of the Tribunal was based on the judgement of the Hon'ble High Court of Delhi dated 30.9.80 delivered in Civil Writ Petition No.176/1979, wherein the equivalence of these services was considered in the context of grant of special pay to these cadres. It was held that the non-implementation of the report of the Third Pay Commission as accepted by the Government in the case of SAOs and SBSOs would be in breach of

the provisions contained in Articles 14 and 16 of the Constitution of India. The present petitioner, Shri K.R. Swami, was the main applicant in the aforesaid Civil Writ Petition. The petitioner was also a Member of the Military Engineering Service and was promoted on 24.12.79 as Senior Administrative Officer. He along with his similarly situated colleagues submitted a representation on 14.11.83 to the Chief Engineer, Central Command, Lucknow for giving them the benefit of condordance table for promoting to the grade of Senior Administrative Officer. Vide letter dated 24.11. 83 his representation was rejected. His case was also referred to the Chief Engineer, Headquarter, Central Command but was rejected again in April, 1984. According to him, the relief given by the Delhi High Court in respect of the special pay implied that all the services were to be treated in an equitable manner in respect of pay and other emoluments. The judgement given by this Tribunal dated 13.11.1992 in OA No.211/86 was only an extension of this principle laid down in the judgement of the Hon'ble High Court of Delhi.

4. We have considered all the relevant factors and we hold that due to an oversight this Tribunal was not able to pass any order on MP No.2873/92 filed by the petitioner before delivering judgement in OA No.211/86. In the interest of justice, we allow the RA and hold that the petitioner (Sh.K.R. Swami) would be entitled to the relief given to his colleagues in OA No.211/86 & OA No.498/86 vide paragraph 11 of the judgement dated 13.11.92, which reads as under:-

"11. In the conspectus of the above facts and

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circumstances of the case, we are of the view that on promotion to the class-I senior scale, the concordance table which had been made applicable in case of other three categories, should be made applicable to the applicants in this case also, and for this purpose, the junior scale class-I, i.e. Rs.700-1300, can be notionally adopted in their cases also. We, therefore, dispose of the application, with the following orders and directions:-

(a) The respondents are directed to treat the petitioner as entitled to the benefit of pay fixation in accordance with the concordance table and as per the directions contained in the Ministry of Defence, OM No.2(18)/75/D(C IV-I) dated 12.1.1976 and fix their pay in accordance with the said table with all consequential benefits including arrears of pay and in case of retired persons, refixation of pension, gratuity, commutation and other benefits. The junior scale of Class-I posts of Executive Engineers will be taken as the basis for notional fixation of pay for giving them the benefit of concordance table for fixing their pay in class-I post.

(b) Any recoveries made towards alleged over-payments to some of the officers, shall be reimbursed to them after revising their pay on promotion. In case of deceased personnel, all payments due to them shall be paid to their families as per Rules.

(c) The above orders shall be complied with, expeditiously and preferably, within a period of three months from the date of receipt of this order.

(d) There will be no order as to costs.
Let a copy of this order be placed in both the case files."

RA is disposed of on the above lines. *Amend*

B.N.DHUNDIYAL
(B.N.DHUNDIYAL) 17/2/93
MEMBER (A)

19/2/93
(P.K.KARTHIKA)
VICE CHAIRMAN