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Dated 15th April 1993

(35A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

R.A.207/93
in OA 1/90

Shri O.P. Aggarwal

Applicant

Vs.

Union of India

Respondent

ORDER

OA 1/90 was disposed of by my judgement dated 1-6-93. The applicant seeks a review of that judgement for the reasons mentioned in the Review Application.

2. I have perused the Review Application and am satisfied that it can be disposed of without any further hearing.

3. The applicant states that the judgement was given after ignoring the various relevant facts brought out in the OA and also in his rejoinder. It is stated that an interim order was passed on 18-2-93 by Hon'ble Shri I.K. Rasgotra wherein he found that the only issue to be decided is whether the pay of the applicant has been fixed properly and that for this purpose he felt that it would be in the interest of justice to see the relevant records fixing the pay of the petitioner and others like S/Shri S.R. Das etc who were selected with him by the UPSC for appointment as Translation Officer. The respondents were given time to produce the record. It is stated in the Review Application that these records were neither called for nor perused before judgement was delivered and that thereby important points were not noticed.

4. It is also stated that as the applicant's pay on the post of Senior Translator in the Air H.Qrs. as on 14-10-71 in the scale Rs.320-530 was properly fixed only on 8-2-83, he did not know that he would be drawing a salary of Rs.410/- p.m. on 10-7-73, which

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is the date on which he was appointed as Translation Officer in the higher pay scale of Rs.350-800 in the Naval H.Qrs. and that, had he continued as Senior Translator till 1-10-73 he would have earned one more increment. Had he known that he would have earned one more increment in the revised pay scale of Rs.550-900 applicable to that post, he would have joined as Translation Officer on that date only, thereby taking the benefit of a pay of Rs.710/- on that post in the revised pay scale of Rs.650-1200. It is stated that failure to consider these aspects is an error appearing on record and therefore the original order requires review.

5. It is also stated that on his appointment as Senior Translator from 1-10-71 the pay he was drawing in the HAL was not protected, while that pay was protected in respect of other persons.

6. I have carefully considered these grounds. The Hon'ble Shri IK Rasgotra released the case from part heard by his order dated 26-2-93. No doubt, at the interim stage he thought that it would be necessary to examine the case of the applicant's pay fixation with those of his erstwhile colleagues in the HAL namely S.R.Das and others. However, when the case was argued before me in detail, I felt it unnecessary to examine this case on those lines. I have mentioned in para 3 of the judgement that the main thrust of the applicant's argument was that favouratism has been shown to S.R.Das, D.Gupta & BS Yadav in the fixation of their pay and yet, the applicant seeks the same benefit for himself. It is further stated in para 7 of the judgement that the proper course for the applicant would have been to implead these persons with a view to rectify the illegal orders passed in their cases. Nevertheless, in para 9 of the judgement,

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their cases have been distinguished from that of the applicant and hence I did not find it necessary to peruse the records relating to their pay fixation. In the circumstances, there is no error apparent on record by not perusing the pay fixation records of other persons.

7. The applicant has not suffered by the delayed fixation of his pay as Senior Translator at Rs.395/- by the order dated 8-2-83. Assuming that on the date of his appointment as Senior Translator in the Air H.Qrs. ^(i.e. 14.10.71) his pay was fixed at Rs.395/- in the pay scale of Rs.325-530 (and not at Rs.325/- as was actually done), still, it would not have made any difference to the course of subsequent events. For, he would still have been appointed as a Translation Officer in the Naval H.Qrs. on 10-7-73 in the pre-revised pay scale of Rs.350-800. The orders on the 3rd Pay Commission's report were not finalised on that date. They were issued much later in December, 1993. Therefore, his pay as Translation Officer would have been fixed under the provisions of Fundamental Rules. He could not have anticipated on 10-7-73 the recommendations of the Pay Commission and the rules that Govt. might ^{frame} for implementing their decisions on the 3rd Pay Commission's recommendations. He could, therefore, not have asked for a postponement of his promotion to the post of Translation Officer from 10-7-73 to 1-10-73 and continued in the post of Senior Translator till 1-10-73 on which date he would have earned one more increment. The claim now made by him in this regard is only due hind sight wisdom.

8. The revised pay rules regularised all orders issued on or after 1-1-73 and all pay fixation done in accordance with the provisions of those rules which have retrospective effect from 1-1-73. Therefore, it cannot be contended that this ground is unique

to the applicant or that there is some error appearing on record.

9. The last contention that the applicant's pay in the HAL was not protected on his appointment in the Air H.Qrs. is a new grievance raised by him in the Review Application. That was not a grievance at any time in the past or at any rate, he had not raised this issue before any authority. Even in the An. A-25 representation made by him to the Joint Secretary (Estt.) Ministry of Defence, he had not raised this issue. His grievance was only that his pay as Translation Officer has been reduced by cancelling some earlier orders. The relief sought by him is only to restore the pay as fixed by An. A-16 & A-18 which relate to the fixation of pay from 1-7-73 in the Air H.Qrs. and the fixation of pay as Translation Officer in the Naval H.Qrs. There is no reference whatsoever, to the initial fixation of his pay in the Air H.Qrs. from 1-10-71.

10. The judgement has traversed all relevant facts. If the applicant is dissatisfied with it, the proper remedy is not to seek a review. No ground has been adduced to justify a review. Hence this Review Application is dismissed.


15.9.93

(N.V. KRISHNAN)
Vice Chairman(A)