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Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.2492/2004

Thursday, this the 5th day of July 2007

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Smt. Neena Ranjan, Member (A)

Ranjana
w/o K.P. Bhatnagar
690 E. Kabool Naaar
Shahdara, Delhi

..Applicant

(By Advocate: Ms. S. Janani)

Versus

1. The Commandant
CVD, Delhi Cantt-10
2. Director General of Ordnance Services
(OS-8C) (ii)
Master General of the Ordnance Branch
Sena Bhawan
Army Headquarters, DHQPO
New Delhi-11
3. The Secretary
Ministry of Defence
South Block, New Delhi

..Respondents

(By Advocate: Shri Sanjeev Kumar)

O R D E R (ORAL)

Hon'ble Shri Shanker Raju, Member (J):

Heard the learned counsel for the parties.

2. Applicant, through this OA, has sought a direction to the respondents to allow her to carry forward the previous higher pay drawn by her at the time of being declared surplus from the date of absorption on the lower post, with all consequential benefits. In a manner, applicant seeks grant of pay protection and other benefits as per CPRO 77/70.



3. Respondents, in the light of a direction issued by the Tribunal in OA-3000/2003, disposed of the request of the applicant on 16.4.2004 by rejecting her claim on the ground that the pay protection would not be allowed to a person, who was initially before being declared surplus, was officiating or working on ad hoc basis.

4. As regards comparability with the case of one Ms. Kusum, it is stated that when the aforesaid incumbent, though declared surplus, was working in a different cadre, it would not be applicable to the applicant in the circumstances.

5. However, we find from the record that the applicant has filed certain additional documents, which is an amendment to SAO 8/S/76 vide letter dated 9.6.1981 wherein clause 19-A has been inserted, which provides in case of an employee being declared surplus protection of carrying forward the previous pay scale, even if the incumbent before being declared surplus was working on officiating basis.

6. In our considered view, the aforesaid, *inter alia*, within its ambit would include the cases of those who have been declared surplus when working in the erstwhile Department even on ad hoc basis as well. In such view of the matter, the stand now taken by the respondents is certainly contrary to their own SAO, which has been overlooked into the order passed by them on 16.4.2004.

7. Learned counsel for respondents though vehemently opposed the contentions and stated that the copy of this order has not been served upon him, yet we find that the copy has already been

delivered to him and despite this no additional affidavit has been filed to rebut the aforesaid documents. However, keeping in light the fact that a right of the applicant, which has been accorded to similarly circumstanced, would not be defeated merely because the order of the respondents has not been taken into consideration by them while disposing of the claim of the applicant.

8. In the light of above, OA is partly allowed. Impugned order is set aside. Respondents are now directed to consider the claim of the applicant for protection of pay on the date of absorption strictly in accordance with the amendment to SAO, as referred to *ibid*, by a detailed and speaking order within two months from the date of receipt of a copy of this order. The consequences would also ensue in accordance with law. No costs.

Neena Ranjan
(Neena Ranjan)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

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