

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No.2519/93.

Date of decision: 17th April 1995

Hon'ble Smt. Lakshmi Swaminathan, Member (Judicial).

Shri H.R. Sharma,
r/o 34-D, M.E.S.,
Officers' Enclave,
Kotwali Road,
Delhi Cantt. -110010. .. Applicant.

((By Advocate Shri U.S. Bisht)

1. Union of India, through
Secretary, Ministry of
Defence, New Delhi-110 011.
2. Engineer-in-Chief,
Kashmir House, DHQ PO.,
New Delhi-110 011.
3. Chief Engineer,
Western Command,
Gandhi Mandir.
4. Director General, Naval Project,
Vishakhapatnam,
Andhra Pradesh.
5. Chief Engineer, Delhi Zone,
Delhi Cantt. .. Respondents

(By Advocate Shri V.S.R. Krishna)

O_R_D_E_R

Hon'ble Smt. Lakshmi Swaminathan, Member (Judicial)

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 to direct the respondents to pay the arrears arising out of grant of 3 advance increments w.e.f. 1.12.1968 and arrears on account of grant of stagnation increment and fixation of pay on promotion from April 1983 to May 1985 with interest at 15% on these amounts and compensation for delay.

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On the objections raised by Shri VSR Krishna, learned counsel for the Respondents that the applicant has claimed multiple remedies in this O.A. Shri Bisht, learned counsel for the applicant, has stated at the Bar that he is restricting his claim in the O.A. to the first claim, namely, for grant of 3 advance increments and he may be given liberty to file a separate O.A. on the latter claims.

2. Accordingly, in this O.A. only the claim for grant of 3 advance increments is being dealt with. The applicant may, if he is so advised, file a separate O.A. in respect of the other claims for arrears of pay, subject to the question of limitation to be decided then.

3. The applicant's claim for 3 advance increments w.e.f. 1.12.1968 is based on the letter dated 4.2.1969 (Annexure A-1) read with Appendix to CPRD 86/71 letter dated 2.6.1971 (which was submitted by the applicant's counsel at the time of hearing and is placed on record) and order dated 31.12.1991 issued by respondents' letter dated 28.1.1992 (Annexure A-14). The brief facts of the case are that the applicant, who was an engineering graduate, was recruited in the Military Engineering Service (MES) in December, 1963 as Superintendent B/R Grade I, Non-gazetted post, in the payscale of Rs.335-485.

✓ The respondent's letter dated 4.2.1969 (Annexure A-1)



provides that a civilian employee paid from the Defence Services Estimates, who acquires a degree in engineering or an equivalent qualification, which is among the qualifications prescribed for recruitment to the Central Engineering Services Class I, while ~~he is~~ serving in a non-gazetted technical scientific Grade shall have his pay refixed, w.e.f. the date on which he acquires the above-mentioned qualification, at the stage in the scale of pay which would give him 3 advance increments. The financial benefit of this decision were to be given from 1.12.1968. The applicant relies on the subsequent letter CPRD 86/71 dated 2.6.1971 and states that in the letter of 4.2.1969 it was made applicable to the persons who not only acquired the prescribed qualification but who also possessed the prescribed qualification at the time of their entry in Government service in non-gazetted technical/scientific grade. The applicant, therefore, claims that he is entitled to the 3 advance increments as given in the letter of 4.2.1969, w.e.f. 1.12.1968. Shri Bisht, learned counsel for the applicant has also referred to the letter issued by the Garrison Engineer, Srinagar dated 31.8.1991 (Pt. II) granting him 3 increments (Annexure A-2) and the ^{latter} order of the officiating Director General, Naval Project, Visakhapatnam dated 19th December, 1988 waiving the time bar limit for claiming the arrears (Annexure A-4). The applicant submits that by virtue of the order dated 31.12.1991 circulated vide letter dated 21.8.1992, his claim for three

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advance increments ought to have been paid as he fulfills the conditions prescribed therein. The applicant states that in spite of several repeated representations, he has not received the arrears of the 3 advance increments w.e.f. 1.12.1968 which he claims he is entitled to and hence, this O.A. Shri Bisht has also referred to a number of cases referred to below :-

- (1) Sagayananthan & Ors. v. DPD SBC Div. Southern Railway, Bangalore
(AIR 1991 SC 424).
- (2) R. Sangeeta Rao v. UOI (1990(1) ATJ 120)
- (3) P.K. Datta Chaudhary v. UOI & Ors.
(ATJ 1991 (1) 577).
- (4) Ram Chandra Shankar Deodhar v. State of Maharashtra
(1974 (1) SCC 317 & 1974 DW (L&S) 137).
- (5) SM Bhatti v. UOI & Ors.
(1989 (ii) ATC 722)

His submission is that this is a proper case where the Tribunal ought not to reject the claim on the ground of delay as his case is very well founded and such technical plea of limitation should not be allowed to frustrate the claim.

4. The respondents have filed a reply in which they say that the application is not maintainable both on the grounds of merit and limitation. They state that the applicant was recruited as Superintendent B/R Grade I in accordance with the recruitment rules which stipulate that direct recruits, should have a degree in engineering and the letter dated 4.2.1969, therefore, does not apply to the applicant. He has already had the benefit of

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possessing the engineering degree in getting the employment as Superintendent B/R Grade I. They state that their PTO No. 36 dated 7.9.1981 was issued wrongly and, hence, the benefit was not given to him. Shri VSR Krishna, learned counsel for the applicant, also relies on a judgment in a similar case in O.A. No. 624/94 B.P. Sharma v. Secretary, Ministry of Defence & Ors. ⁷ decided on 22.11.1994 (Annexure A-4). The learned counsel has also strongly urged that this is ^{a 1/2} much belated and stale claim relating to arrears of increments w.e.f. 1.12.1968 and clearly barred under the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985.

5. I have carefully considered the arguments of learned counsel of both the parties and perused the records in the case.

6. On a plain reading of the letter dated 4.2.1969 on which the applicant relies, it is seen that this is in the form of an incentive scheme to those employees serving in a non-gazetted technical/scientific grades, who acquire any of the degrees mentioned therein when they become eligible for the 3 advance increments from the date they acquire the degree. It is clear that this letter had no application to the case of the applicant, who already possessed a degree in engineering when he was recruited as Superintendent B/R Grade I and got the benefit of that post from his date of appointment. Thus,

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this letter of 4.2.1969 will not assist the applicant.

7. Shri Bisht laid great emphasis on CPRD 86/71 dated 2.6.1971 which provides that the letter dated 4.7.1969 will also be applicable to persons who possess the prescribed qualification at the time of their entry in Government service in non-gazetted technical/scientific grades. If this is the case, it is also clear that the applicant is raising a much belated claim and this O.A. is barred having regard to the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985. Apart from this, Shri Krishna, learned counsel for the respondents, also stated that the letter dated 31.12.1991 while extending the benefits of the letter dated 4.2.1969, refers to only employees who acquire the prescribed degree and not to those who possess the same. The letter of 31.12.1991 (Annexure A-4) provides that as a result of certain judgements it has been decided as a special case to extend the benefit of C.A.T's order in the above OAs to all the similarly placed civilian employees paid from Defence Services Estimates who were either possessing the requisite qualification at the time of entry into service in a non-gazetted Technical/scientific post during the period from 5.9.72 to 30.11.1973 or had entered Govt. service under Ministry of Defence prior to 5.9.1972 and acquired requisite qualification during the period from 5.9.1972 to 30.11.1973, while holding such a post."

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Shri Bisht put forward an argument that possession of the prescribed qualification was the same as acquisition of the degree while in service. This intention of the argument is rejected because the original letter of 4.2.1969, followed by the 31st December, 1991 is to letter, provide an incentive to the employees to acquire the prescribed qualification of a degree while serving in a non-gazetted technical/scientific grade. Shri Bisht has also not shown that appendix to CPRD 86/71 is still in force or why he did not prefer any claim under this letter soon after the same was issued. Therefore, this claim based on Appendix to 86/71 CPRD is not tenable.

8. From the portion of the letter dated 31.12.1991 extracted above, the applicant, who admittedly had an engineering degree, did not enter service during the period from 5.9.1972 to 30.11.1973, nor did he acquire the requisite qualification after he entered service during the period 5.9.1972 to 30.11.1973, while holding a non-gazetted technical/scientific post. Therefore, the applicant cannot rely upon this circular for claiming the 3 advance increments as he does not fulfil the conditions prescribed therein.

9. The attempt of the learned counsel for the applicant to distinguish the facts in this case from those in (D.P. Verma v. Secretary Ministry of Defence & Ors. O.A. No. 624/94) is also unconvincing as the material facts are the same and this argument is rejected.

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10. A perusal of the records in this case also clearly shows that the claim for 3 advance increments suffers from laches and delay and is hopelessly time barred. Therefore, since the application lacks merit, this is not a fit case where the judgments relied upon by the applicant will assist him.

11. In the result, this application is dismissed both on the grounds of limitation and merits. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (Judicial)