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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.719/93

New Delhi this 3rd June, 1994.

CORAM

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

V.P.Singh,
s/o Shri Nathu Singh,
r/o B-15, MIG Flats,
Loni Road, Shahdara, Delhi
working as Senior Audit Officer,
Defence Services in the office
of Deputy Director of
Defence Accounts, Delhi Cantt.

.....Applicant.

By Advocate Shri U.S.Bisht.

Versus.

1. Union of India, through
Controller & Auditor General of India,
New Delhi.
2. Director General of Audit,
Defence Services, Brassy Avenue,
New Delhi.
3. Deputy Director of Audit,
Defence Services,
T-59, Tigris Road,
Delhi Cantt.

.....Respondents.

By Advocate Shri N.S.Mehta

ORDER

In this application, Shri V.P.Singh, Senior Audit Officer, Office of the Deputy Director, Defence Accounts, Delhi Cantt., has prayed for stepping-up his pay to Rs.620/- p.m. w.e.f. 26.2.73 with the next date of increment as 1.2.74 together with payment of arrears.

2. The applicant was appointed as an Auditor on 9.11.60 and after passing the Subordinate Accounts Service Examination(SAS), he was promoted as Section Officer (A) on 2.5.67 in the

pay scale of Rs.270-575/- and his pay was fixed at Rs.270/- p.m. Vide Finance Ministry's letter dated 3.1.75 (Annexure-A1), a special pay of Rs.20/- was granted to such Lower Division/Upper Division Clerks/ Stenographers who had passed the SAS examination and this special pay was to be taken into account for fixation of pay on promotion. This order took effect from 1.1.73. As a follow up of the said order dated 3.1.75, administrative instructions were issued, vide letters dated 29.1.75 (Annexure-A2) and 5.4.75 (Annexure-A3) that those Clerks/Auditors/ Senior Auditors who had passed the SAS examination after 1.1.73 would be granted a special pay of Rs.20/- from the date following the last date of SAS examination, and such of the persons who had passed the SAS examination before 1.1.73 but were not promoted as Section Officers on that date, would, however, get on 1.1.73 as special pay, only such amount as was equal to Rs.20/-, less the benefit that they had already got through higher rate of increments (during the whole period they had been waiting for promotion upto 31.12.72). It was further stated that if in any case the said difference was nil or in negative, the person concerned would not get any special pay from 1.1.73. The applicant states that the persons junior to him and those who passed the SAS examination along with him, were given the benefit of stepping-up of their pay on promotion as SO(A) by taking into account the special pay of Rs.20/- for passing the SAS examination, but the applicant was denied this benefit and thus singled out for hostile discretion, which was arbitrary, malafide, illegal and in violation of Articles 14

and 16 of the Constitution.

3. On behalf of the respondents, the first ground taken in the counter affidavit is that the application is barred by limitation because the applicant's representation for stepping-up of his pay was rejected in April, 1987 while this O.A. was filed on 30.3.93 i.e. after nearly six years. Secondly, it has been urged that while the applicant joined the Department on 9.11.60, the other four persons whose pay was stepped up, joined in 1952-54 and hence the applicant is junior to all of them. It is stated that the prayer for stepping -up of his pay is fit to be rejected as the conditions laid down in Finance Ministry's O.M. dated 18.7.74 have not been fulfilled.

4. I have heard Shri Bisht learned counsel for the applicant and Shri Mehta, learned counsel for the respondents.

5. In so far as the ground of limitation is concerned, Shri Bisht has cited a catena of judgments of the CAT as well as the Hon'ble Supreme Court, the thrust of which is that where the financial loss ^{Alleged to} is of recurring nature, the same cannot be barred by limitation. In the instant case, as the claim for stepping up of pay involves financial loss ^{if not paid in} to the applicant, which is of recurring nature, in equity and justice, it is only fair that the claim is decided on merits. Hence, the ground of limitation, advanced by the respondents, is rejected.

6. As regards the second ground taken by Shri Bisht ^{he}, has drawn my attention to the contents of Ministry of Finance (Defence) letter dated 21.9.78 (Annexure-A4) which refers to anomalies arising out of grant of special pay to auditors etc.

who passed the SAS PART II Examination. That letter states that pay of Senior SOs (A) be stepped up to the level of that drawn by juniors in SOs (A) grade provided after careful examination of each individual case it is found that the anomaly has arisen as a direct recruit of the charge in the nature and character of incentive for passing SA Part II Examination. Shri Bisht has argued that it is not seniority determined by date of joining the department which is relevant as contended by the respondents, but date of entry into SOs (A) grade which is relevant and by that criteria, the applicant is senior to three and equal seniority to one, out of four persons named by him whose pay has been stepped up.

7. There is nothing to indicate on record whether the respondents have examined the applicant's case in the light of the contents of this letter dated 21.9.78 (Supra) or not.

8. Under the circumstances, the respondents are directed to consider the applicant's case in the light of all the relevant rules and instructions including the Ministry of Finance (Defence)'s letter dated 21.9.78 (Supra) and to dispose of the ^{claim} ~~same~~ by means of a reasoned order, which they will communicate to the applicant within four months from the date of receipt of a copy of this order.

No costs

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(S.R. ADIGE)
Member (A)

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