

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 11th day of December, 2003.

Original Application No. 544 of 1996.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Sudhir Budakoti a/a 33 years, S/o Dr. K.L. Budakoti,
R/o C/o S.P.D.A Centre Sport Stadium, Kahipur,
Distt. Nainital.

.....Applicant

Counsel for the applicant :- Sri S.K. Khare

V E R S U S

1. Union of India through the Director General,
Sports Authority of India,
Jawahar Lal Nehru Stadium, New Delhi.

2. Assistant Director (Personel),
Sports Authority of India,
Jawahar Lal Nehru Stadium, New Delhi.

.....Respondents.

Counsel for the respondents :-Sri G.R. Gupta
Sri Arun Bhardwaj

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant was initially appointed in Army services under M/o Defence, Government of India as Short Service Commissioned Officer on contract basis. At the time of his release from Army service, the applicant was getting Rs. 3000/- per month as basic pay. Subsequently he was appointed under the Apparel Export Promotion Council, a company sponsored by the M/o Commerce and therefore, the applicant claimed for protection of his pay which he was drawing while in the Army service. The Apparel Export Promotion Council declined the request of the applicant with regard to his

(Rao)

pay protection vide letter dated 11.06.1993 (annexure R-I) on the ground that the Apparel Export Promotion Council being a company and not the public Sector undertaking, the claim of pay protection could not be acceded to. The service certificate issued by the Apparel Export Promotion Counsel dated 03.10.1991 (annexure R-III) would indicate that the last pay drawn by the applicant was Rs. 2200/- in the scale of Rs. 2200-75-2800-EB-100-4000. The applicant came to be appointed under the Soprt Authority of India as Assistant Director vide appointment letter dated 05.08.1991 (annexure A-2) in the scale of Rs. 2200-75-2800-EB-100-4000 at the minimum of pay scale and posted as Manager, SPDA Centre at Nagercoil (Tamilnadu). By means of the said appointment letter, it was made clear to the applicant that if the terms and conditions enumerated therein were acceptable to him, he might have informed his acceptance immediately. However, the terms and conditions as mentioned in the appointment letter dated 05.08.1991 were accepted by the applicant but subsequently he claimed for protection of his pay which he was drawing in the Army and the same has been rejected by the impugned order dated 27.03.1995 (annexure A-I).

2. It is submitted by the learned counsel appearing for the applicant that in view of the instruction No. 27 issued by the Government of India, Department of Personnel and Training O.M No. 12/188-Est.(Pay-I), dated 07.08.1989 (FR-22), the applicant is entitled to the protection of pay which he was drawing in the Army service. We are of the view to appreciate the controversy, it would be proper to quote the instruction No. 27 as under :-

"(27) Protection of pay is admissible for candidates recruited from Central Autonomous Bodies/Public Sector Undertakings.- As per extant rules/orders, pay protection is granted to candidates who are appointed by the method of recruitment by selection through the Union Public Service Commission if such candidates are in

Government service. No such pay protection is granted to candidates working in Public Sector Undertaking, Universities, Semi-Government Institutions or Autonomous Bodies, when they are so appointed in Government. As a result of this, it has not been possible for Government to draw upon the talent that is available in non-Government organisations.

2. The question as to how pay protection can be given in the case of candidates recruited from Public Sector Undertakings, etc., has been engaging the attention of the Government for sometime. The matter has been carefully considered and it has been decided that in respect of candidates working in Public Sector Undertakings, Universities, Semi-Government Institutions or Autonomous Bodies, who are appointed as direct recruits on selection through a properly constituted agency including departmental authorities making recruitment directly, their initial pay may be fixed at a stage in the scale of pay attached to the post so that the pay and DA, as admissible in the Government will protect the pay plus DA, already being drawn by them in their parent organisation. In the event of such a stage not being available in the post to which they have been recruited, their pay may be fixed at a stage just below in the scale of the post to which they have been recruited, so as to ensure a minimum loss to the candidates. The pay fixed under this formulation will not exceed the maximum of the scale of the post to which they have been recruited. The pay fixation is to be made by the employing Ministries/Departments after verification of all the relevant documents to be produced by the candidates who were employed in such organisations.

3. These orders take effect from the first of the month in which this Office Memorandum is issued, i.e. 1st August, 1989."

A perusal of the aforesigned instructions would indicate that it was issued with a view to draw upon the talent available in non-Government organisations. In other words, the pay protection under the instructions can be given in case of candidates recruited from Public Sector Undertakings, etc.

3. After leaving the Army services, the applicant was engaged under the Apparel Export Promotion Council in the pay scale of Rs. 2200-4000/- i.e. scale in which he has been appointed under the Sports Authority of India. We are of the considered view that the instruction²⁷ aforesaid does not help the applicant and ^{he is} is not entitled to claim protection of pay which he was drawing under the Army services.// It was then submitted by the learned counsel for the applicant that the pay of the applicant while in service under the Apparel Export Promotion Council was fixed at Rs. 3000-4500/-, vide order dated 30.01.1997. A copy of the said order has been produced before us during the arguments. A perusal of the said order would indicate that the applicant's pay was ordered to be treated as Rs. 3000/- in the pay scale of Rs. 3000-4500/- in view of the revision of pay scale of Rs. 2200-4000 to Rs. 3000-4500 /- and not as a result of protection of pay which the applicant was drawing in the Army services. The applicant cannot get the advantage of the revision of pay enforced in the Apparel Export Promotion Council. ^{though he} He may be entitled to ^{another} ^{if any,} ^{take place} get the benefit of/revision of pay that may be enforced in the Sports Authority of India. The learned counsel for the applicant has not been able to point-out any provision in which the pay of the applicant under the Army Service can be protected.// In view of the above discussion, the original application is dismissed with no order as to costs.

Dhawal
Member - A.

Regd
Vice-Chairman.

/Anand/