

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 20th day of January 2003.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON. MR. S. DAYAL, A.M.

O. A. No. 575 of 1997

1. M.N. Srivastava S/O Late R.A. Lal R/O 129-A, Old Mumfordganj, Allahabad.
2. B.K. Agrawal S/O Sri B.P. Agrawal R/O 1083, Kalyani Devi, Allahabad.
3. S.B. Singh S/O Late Jageshwar Singh R/O Village Pure Ajmershah, P.O. Vishwanathganj, Allahabad.
4. Girish Chandra S/O Late Daya Shankar R/O 113/8, M.T. Lines, Allahabad.
5. R.A. Lal S/O Late K.N. Lal R/O 184/1/4, Tilak Nagar, Allahpur, Allahabad.
6. Govind Singh S/O Late Ram Nath Singh R/O 243, Dendipur, K.N. Katju Road, Allahabad.
7. S.C. Srivastava S/O Sri S.N. Srivastava R/O 94/68, Phaphamau, Allahabad.
8. R.N. Tripathi S/O Sri C.R. Tripathi R/O Village Pure Kharagrai, P.O. Vishwanathganj, Allahabad.
9. B.D. Singh S/O Sri Ram Deo Singh R/O 5, Govind Nagar, Kareli, Allahabad.
10. R.P. Singh S/O Late R.M. Singh R/O Village Kotwa (South), P.O. Jamunipur, Allahabad.
11. Maqsood Hasan S/O Late Ata Hasan R/O 129/10-A, New Chakiya, Allahabad.
12. R.K. Shukla S/O Pt. B.L. Shukla R/O D-59, GTB Nagar, Kareli, Allahabad.
13. S.K. Agarwal S/O Late B.L. Agrawal R/O 550-D, Colonelganj, Allahabad.
14. V.P. Ojha S/O Late Ram Naresh Ojha R/O 451, Shahganj, Allahabad.
15. R.S. Shama S/O Late K.N. Shama R/O EWS-856, Avas Vikas Colony, Yojna-3, Jhunsi, Allahabad.
16. U.S. Vishwakama S/O Late R.P. Lal Vishwakama R/O Vill. & Post Ram Nagar, District Allahabad.
17. S.K. Malviya S/O Late Pt. D.P. Malviya C/O Sri S.P. Kakkar, 65/73, Vivekanand Marg, Allahabad.
18. G.K. Pandey S/O Late R.P. Pandey R/O Village Beerpur, P.O. Dunduma, Allahabad.
19. L.R.B. Singh S/O Late Mahabal Singh R/O 40, Karanpur, Allahabad.
20. U.C. Verma S/O Late Jai Narain Lal R/O 506/380, Attar-suiya, Allahabad.

21. S.K. Srivastava S/O Late R.P. Lal Srivastava R/O 525/416, Mumfordganj, Allahabad.
22. R.N. Srivastava S/O Late J. Prasad R/O 230/2-A, Mehdauri, Allahabad.
23. J.B. Singh S/O Late Kedar Singh R/O 506, Rajrooppur, Allahabad.
24. R.C. Shukla S/O Sri R.D. Shukla R/O 106/1-A, Phulwaria Road, Daraganj, Allahabad.
25. S.B. Singh S/O Late Shankar Singh R/O 180/C/1, Rajrooppur, Allahabad.
26. O.P. Koppil S/O Late N.B. Kapil R/O 141-E/10, Rajrooppur, Allahabad.
27. P.P. Yadav S/O Late Lalji Yadav R/O 41-B, Beli Road, New Katra, Allahabad.
28. G.C. Lal S/O Late K.C. Lal R/O 290, Kydganj, Allahabad.
29. A.P. Shukla S/O Late Hargovind Shukla R/O Village Nibaiya, P.O. Meja Road, Allahabad.
30. S.P. Gupta S/O Late Mohan Lal R/O 54, S.C. Basu Road, Allahabad.
31. B.P. Kakkar S/O Late R.P. Kakkar R/O 105, Attarsuiya, Allahabad.
32. Rajendra Singh S/O Late H.D. Singh R/O 118/43, M.T. Lines, Allahabad.
33. M.P. Srivastava S/O Late R.C. Pd. Srivastava R/O 23/41, M/1, Ramanand Nagar, Allahpur, Allahabad.
34. V.K. Srivastava S/O Late J.P. Srivastava R/O 95/104-B, Sarvodaya Nagar, Allahabad.
35. S.K. Srivastava S/O Ram Narain Lal R/O 204-C, Rajrooppur, Allahabad.
36. B.N. Ojha S/O Late Ram Bilas Ojha R/O 1124, Rajrooppur, Allahabad.
37. T. Singh S/O Sri Binda Singh R/O 180-C/8-A, Rajrooppur, Allahabad.
38. T.S. Upadhyaya S/O Late R.J. Upadhyaya R/O 81/11-D, Tilak Nagar, Allahabad.
39. K.M. Srivastava S/O Sri Raghunath Saran R/O 258, Malviya Nagar, Allahabad.
40. J.L. Chaurasia S/O Sri L.R. Chaurasia R/O 496/A, Daraganj, Allahabad.
41. V.K. Shukla S/O Sri B.N. Shukla R/O 449-C, Shivaji Nagar, Allahpur, Allahabad.
42. Siraj Ahmad S/O Sri S.M. Rafiq R/O 201, Shahganj, Allahabad.
43. Karuna Shankar S/O Late B. Prasad R/O 18-A/35, Bhawapur, Allahabad.
44. N.R. Mishra S/O Late R. Mishra R/O 1K/26, Rajrooppur, Allahabad.

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45. S.P. Mishra S/O Late B.L. Mishra R/O 197-A, Tularambagh, Allahabad.
46. M.P. Yadav S/O Late Sheo Mangal R/O 389, Baghambari (East), Allahpur, Allahabad.

..... Applicants.
 Counsel for applicants : Sri K.C. Sinha & Sri H.S. Srivastava.

Versus

1. Union of India through the Secretary, Ministry of Defence (Finance), New Delhi.
2. Financial Advisor, Ministry of Defence (Finance), New Delhi.
3. Controller General of Defence Accounts, West Block-V, R.K. Puram, New Delhi.
4. Chief Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.

..... Respondents.
 Counsel for respondents : Km. S. Srivastava.

AND

O. A. No.1134 of 1997

1. H.L. Chhabra S/O Late H.N. Chhabra R/O 65/4, Labour Colony, Govind Nagar, Kanpur.
2. V.P. Tewari S/O Late D.P. Tewari R/O 106/196-B, Kiran Vihar, Gandhi Nagar, Kanpur.
3. R.D. Vishok S/O Late Gaya Deen Prasad R/O P/No.71, Barra-5, Kanpur.
4. On Prakash S/O Late Gulrari Lal R/O G-1/253, Amapur Estate, Kanpur.
5. P.L. Shankhwar S/O Late Ram Charan R/O 10/6, Juhi Pili Colony, Juhi, Kanpur-18.
6. S.L. Kureel S/O Late Bhajan Lal R/O 11/5, Pili Colony, Juhi Depot, Kanpur.
7. Babu Lal Aherwar S/O Late B.P. Aherwar R/O 255, L.I.G., Barra-5, Kanpur.
8. Barku Ram S/O Late Sukhai Ram R/O MIG 805/F, Sector Gujaini, Kanpur.
9. V.K. Misra S/O Sri M.D. Misra R/O 336/1, Rail Bazar, Kanpur Cantt.
10. B.S. Misra S/O Late Bansh Gopal Misra R/O 117/1062-M, Block Kakadeo, Kanpur.
11. R.D. Singh Sachan S/O Sri Mangli Prasad Sachan R/O 88/9, Vijai Nagar, Kanpur.
12. P.N. Tripathi S/O Late B.P. Tripathi R/O 199 'N' Block, Kidwai Nagar, Kanpur.

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13. M.C. Nigam S/O Late H.P. Nigam R/O 82/152, Vinoba Nagar, Gandhi Gram, Kanpur.
14. B.S. Hajela S/O Late Krishan Sahani R/O 106/257, Gandhi Nagar, Kanpur.
15. N.B. Srivastav S/O Late H.L. Srivastav R/O 104/91(1), P. Road, Sisamau, Kanpur.
16. R.R. Nagar S/O Late D.R. Nagar R/O G-1/405, Amapur Estate, Kanpur.
17. G.S. Bajpai S/O Late Shiva Kumar Bajpai R/O G-1/253, Amapur Estate, Kanpur.

..... Applicants.

Counsel for applicants : Sri H.S. Srivastav.

Versus

1. Union of India through the Secretary, Ministry of Defence (Finance), New Delhi.
2. Financial Advisor, Ministry of Defence (Finance), New Delhi.
3. Controller General of Defence Accounts, West Block-V, R.K. Puram, New Delhi.
4. Chief Controller of Accounts (Factories), 10-A, Auckland Road, Calcutta.

..... Respondents.

Counsel for respondents : Km. S. Srivastav.

ORDER

BY HON. MR. S. DAYAL, A.M.

O.A. No.575/97 has been filed by 46 applicants seeking direction to the respondents to grant special pay of Rs.35/= per month to the applicants with effect from 1.5.86, the day their juniors were paid with all consequential benefits along with interest at the rate of 18% per annum. O.A. No. 1134/97 has been filed by seventeen applicants seeking the same relief.

2. Since issues of facts and law are identical, the applications have been heard together and a common order is being passed.

3. The applicants belong to the category of Selection Grade Auditors in the office of Controller of Defence Accounts Allahabad who is Respondent No.4 in this application. At

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the time the application was made in 1997, many of them had retired. They have made a common cause because they were in service in 1986.

4. The applicants have mentioned that a scheme of Special Pay of Rs.35/= per month to 10% of the cadre of Auditors in Defence Accounts Department including Selection Grade Auditors was launched on 5.5.84 and posts to the extent of 10% were identified in each office. Since the posts were located in different offices, options were obtained from the Auditors regarding their acceptability of Transfer in the event their turn come on the basis of seniority for grant of Special Pay. Those who opted for transfer were to be conferred the benefit of Special Pay in order of their seniority. The Auditors were granted Special Pay under the scheme in 1984, 1985 and 1986. It was, however, found that all the posts carrying Special Pay could not be filled up from amongst the Auditors who were covered under the scheme in the first instance. Therefore, it was decided to extend the scheme to the Special Grade Auditors appointed up to 22.6.81. But before the benefit could be conferred upon them, the scheme of Special Pay was withdrawn by order dated 13.9.86. Due to persistent demand from the Auditors identified subsequently for grant of Special Pay, the respondents, by order dated 31.5.95, decided to fill up the remaining unfilled posts from amongst the Auditors identified subsequently with effect from 10.7.86 on the date from which they were employed whichever was later. It was found difficult to implement the scheme under order dated 31.5.95 and hence by order dated 20.10.95, the conditions of identifying 10% posts in each office and acceptance of transfer were waived. It is claimed that 88 officials belonging to the category of Auditors/ Selection Grade Auditors, who were junior to the applicants, were granted Special Pay under relaxed conditions. The applicants through these applications have claimed the benefit of the relaxed conditions.



5. We have heard the arguments of Sri H. S. Srivastava for the applicants and Km. Sadhana Srivastava for the respondents.

6. Counsel for the applicant contended that on account of change in conditions, which were applied to the Auditors/ Selection Grade Auditors identified earlier to persons junior to the applicant, they were benefitted in grant of Special Pay of Rs.35/= per month and started drawing more pay at the time of pay fixation under the scales recommended by the 4th Pay Commission. His contention is that all those who were identified initially should have been considered for grant of Special Pay after the conditions were changed on account of order dated 20.10.1995.

7. We have carefully perused the contents of order dated 20.10.95 (Annexure-A-14). Paragraph 'C' of the said order runs as follows :-

"Cases of Senior most Auditors/ SGAs appearing in the list from Sl.No.1 to 2040 who were not earlier eligible for the benefit of the grant of Special Pay as on 1.5.84 or the date on which they were employed on complex nature of duties due to the reasons that they were already drawing the higher rate of special pay, cashier allowance, deputation allowance etc. and have subsequently become eligible for the said benefit as on 10.7.86 but before 13.9.86. Such cases are required to be reviewed by CsDA and forwarded to Hqrs. office alongwith detailed statement of each case with specific recommendations for examination at this Hqrs. in terms of para 5(iv) of our circular dated 31.5.95."

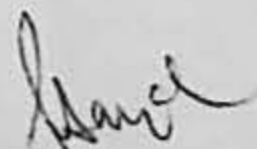
8. A perusal of this paragraph makes it clear that it was intended to grant the benefit of Special Pay to senior most Auditors/ SGAs who had become eligible for the said benefit as on 10.7.86 and before 13.9.86. We find from the para 23 of the counter reply, filed by the respondents, that grant of Special Pay to 140 senior most Selection Grade Auditors falling between Roaster No.588 to 2040 was under sympathetic consideration of the Ministry of Finance, Department of Expenditure. The respondents have also mentioned in paragraph 11 of the counter reply that seven persons had given their option for transfer



in response to memo dated 4.7.86. This category along with the category of those who were earlier not entitled to Special Pay but became entitled to Special Pay as on 10.7.86 on account of order dated 20.10.95 were those entitled to be considered for grant of Special Pay on vacancies which remained after grant of Special Pay w.e.f. 1.5.86 before the juniors falling between Sl.No.2041 to 3062 were granted Special Pay.

9. It is not known whether the applicants belonged to any of the above two categories. In case they belonged to any of the above two categories, they shall individually bring the fact to the notice of Respondent No.4 by means of representation and the respondents shall consider their claims under the scheme applicable to those falling between Sl.No.1 to 2040 for grant of Special Pay w.e.f. 10.7.1986. The respondents are directed to consider the claims of individual applicants filing their representation in accordance with the principles outlined above.

There shall be no order as to costs.


A.M.


V.C.

Asthena/