

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 04th day of September 2002.

Original Application no. 641 of 1997.

Hon'ble Mr Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Member (A)

Shri RR Mishra, FF/121, S/o late Shri HL Mishra,  
R/o 192, Nai Bazar, Naini, Allahabad.

... Applicant

By Adv : Sri R Verma

Versus

1. Union of India through the Secretary,  
Ministry of Defence, New Delhi.
2. The Officer Incharge, A.O.C. (Records),  
Secunderabad.
3. The Commandant, Central Ordnance Depot,  
C.O.D., Chheoki, Naini, Allahabad.

... Respondents

By Adv : Sri SC Tripathi

O R D E R

Hon'ble Mr Justice RRK Trivedi, VC.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for a direction to respondents to refix the pay of the applicant w.e.f. 6.9.1984 as Fireman Grade II after giving benefit of and counting <sup>the</sup> ~~of~~ Past services of 17 years and 9 months rendered in the Indian Army and to place the applicant at par with Sri K.N. Gupta, FF/120, Fireman Grade II.

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2. The undisputed facts of the case are that the applicant worked in Indian Army from 22.6.1963 to 30.6.1980 in AMC. The applicant was re-employed as Fireman Grade II w.e.f. 6.9.1984 in the pay scale of Rs. 200-3-206-4-232-EB-4-250. The pay of the applicant after re-employment was fixed as Rs.206/- One Sri K.N. Gupta, was appointed in Indian Army as Sepoy w.e.f. 1.10.1965. Sri K.N. Gupta worked in Army upto 1.10.1983 and rendered 18 years of service in Indian Army. Sri KN Gupta was also re-employed w.e.f. 18.8.1984 as Fireman Grade II in the same scale. The pay of Sri K.N. Gupta was revised and he was given benefit of Army service. His pay was fixed as Rs. 246/- and he was given increment of Rs. 04/- w.e.f. 1.8.1985 and the pay was fixed as Rs. 250/-. However, the applicant was denied the benefit of Army service on the ground that his record is not available and the same has been destroyed. Communication was given by annexure CA 1, a letter dated 3.8.1988. The contents of the letter <sup>are</sup> being reproduced below :-

"In this connection it is stated that the NE IRLA of the individual concerned has been destroyed being time barred record. Hence, the pay details cannot be furnished at this belated stage. However, the pay scale applicable w.e.f. 1.1.1973 is appended below :

190-5-150."

3. In our opinion, if the pay scale applicable to the applicant was known, it was the responsibility of the respondents to calculate the pay of the applicant on the date of his retirement ie. 30.6.1980. The requisite information in our opinion was available, the respondents have not applied their mind and denied the bonafide claim of the applicant. In any view of the matter the applicant had served the Indian Army for over 17 years, it was not very difficult

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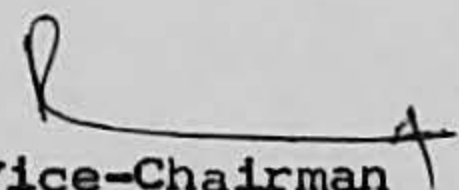
to find out the pay scale and the last pay drawn <sup>Annex 4</sup> to other similarly situated persons. The case of Sri K.N. Gupta, could be <sup>an</sup> ~~as~~ example for giving benefit to the applicant. The genuine claim of the applicant should not have been denied in this manner.

4. For the reasons stated above, the OA is allowed. The respondents are directed to calculate the pay of the applicant according to the scale mentioned in the letter dated 3.8.1988 (Annexure CA1). After calculating his pay which could have been payable on 30.6.1980 to the applicant his pay shall be fixed giving him benefit of the Army services. This exercise shall be <sup>completed</sup> ~~completed~~ <sup>with</sup> within a period of four months and the amounts due to the applicant including arrears shall be paid within 6 month, thereafter.

5. There shall be no order as to costs.



Member (A)



Vice-Chairman

/pc/