

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 849 of 1997

Allahabad, this the 2nd day of June, 2003

QUORUM : HON. MAJ. GEN. KK SRIVASTAVA, MEMBER A
HON. MR. A.K. BHATNAGAR, MEMBER J

1. Ved Prakash, aged about 62 years s/o late Shri Roshan Lal R/o 19/9, Charan Singh Colony, Govind Nagar, Kanpur - 208 014
2. Smt Sahab Kaur, age 58 years w/o late Sri Ram Singh, R/o H.No.-213-Village KAKRAUIA, NEW DELHI.

... . . . Applicants.

(By Advocate : Sri Rakesh Verma)

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. General Manager, Small Arms Factory, Kanpur.

... . . . Respondents.

(By Advocate : Sri A. Mohiley)

O R D E R (Oral)

BY HON. MAJ. GEN. K.K. SRIVASTAVA, MEMBER A

In this O.A. filed under section 19 of Administrative Tribunal Act, 1985, the applicants have prayed for the following reliefs :

"To issue a writ, order or direction in the nature of certiorari quashing order dated 15.1.1993, passed by the Respondent No., 2, denying the pay scale of



Rs. 110-155 in pursuance of judgment delivered by the Hon. Principal Bench, New Delhi dt. 01.9.1992 in the case of D.R.Gulati Vs. Union of India & Others on the ground that the petitioners were not pary to the aforesaid case.

(ii) To issue a writ, order or direction in the nature of mandamus directing the Respondent No. 2 to pay the arrears of pay and allowances to both the petitioners from 23.11.65, calculated on the basis of higher pay scale i.e. Rs. 110-155, extending the benefit of judgment dated 01.9.92 delivered by the Hon. Principal Bench as well as judgment dated 01.11.96 delivered by the Hon'ble Tribunal within a period as may be stipulated by this Tribunal.

(iii) To issue a writ, order or direction in the nature of mandamus directing the Respondent No. 2 to pay to both the petitioners interest at the rate of 18% per annum on the total calculated amount of arrears.

(iv) To issue any other suitable order or direction in the facts and circumstances of the case which this Tribunal may deem fit.

(v) To award cost of the petition."

2. The facts of the case are that applicant No. 1 was initially appointed as Labour w.e.f. 29.01.1960 in regular capacity and was posted at 505, Central E.M.E. Workshop, Delhi Cantt. and was subsequently promoted to the post of Vehicle Mate in the pay scale of Rs.75-95 w.e.f. 29.12.1962. Subsequently he was again promoted to the post of Vehicle Mechanic in the pay scale of Rs. 110-155 w.e.f. 27.2.1963 in permanent and regular capacity. Similarly petitioner no. 2 was initially appointed as Vehicle Mate w.e.f. 11.12.1962 in the pay scale of Rs. 75-95 and was posted at 505, Central E.M.E. Workshop, Delhi Cantt. He was subsequently promoted to the post of Vehicle Mechanic in the pay scale of Rs. 110-155 w.e.f. 27.2.1963 in permanent regular capacity. The applicants were declared surplus and were absorbed in the respondent's establishment i.e. Small Arms Factory a lower post i.e. pay scale of Rs. 75-95. However, the pay protection was not granted to them. Hence this O.A. for

claiming arrears of pay and allowances which has been contested by the respondents by filing counter-^h reply.

3. Sri R.Verma, learned counsel for the applicant submitted that the case of the applicant is fully covered by the decision of Principal Bench of this Tribunal dated 01.9.1989 passed in O.A.No. 2707/89. A controversy has been decided and the same view has been taken by this Tribunal in the order dated 01.11.96 passed in O.A.No. 95/93 and also dated 04.2.2002 passed in O.A.No. 643 of 1998. The applicant has annexed the judgment of Principal Bench dated 01.9.1989 as Annexure A II and of this Tribunal dated 01.11.1996 as Annexure A III. The learned counsel for the applicant has also supplied the photocopy of judgment of this Tribunal dated 04.2.2002 passed in O.A.No. 643/98. In view of the law laid down in the above cases, the applicants are entitled for the relief.

4. Sri A.Mohiley, learned counsel for the respondents submitted that application is barred under section 21 of the Administrative Tribunals Act, 1985. The applicants have approached this Tribunal ^{after} about 3 decades and, therefore, the O.A. is not maintainable on the ground of limitation alone.

5. We have heard the counsel for the parties, considered their submissions and perused records.

6. We ^{have} ~~are~~ carefully gone through the 3 judgments one of the Principal Bench and two of this Tribunal cited by the learned counsel for the applicant. The perusal ^{leaves} of the same ^{leaves} no doubt in our mind that the case of the applicants ^{is} ~~is~~ squarely covered by the judgments of Principal Bench of this Tribunal dated 01.9.1989 passed in O.A.No. 2707/89 D.R.Gulari vs. Union of India & Ors. order of this Tribunal dated 01.11.1996 passed in

O.A.No. 95/93 Govind Ram & Ors. Vs. U.O.I. & Ors. and also order of this Tribunal dated 04.2.2002 passed in O.A.No. 643/98 Noorul Hasan and Another Vs. U.O.I. & Another.

7. In the above O.A.s the plea of limitation was taken by the respondents which was not accepted as a good ground for interference.

8. In view of the above judgments, we are inclined to hold that the present O.A. cannot be rejected as barred by time. The applicants are entitled to the same relief which has been given by the Principal Bench and this Tribunal in the O.A. referred to above.

9. Accordingly we allow the O.A. Order dated 15.1.93 (Annexure AI) is quashed. We dispose of the same with direction to the respondents to place the applicants in the pay scale of Rs. 110-155 from the date of their transfer to Small Arms Factory, Kanpur. The applicants shall also be entitled to interest @ 9% from the date of filing of this O.A. i.e. 13.8.1997 to the date of payment. This order shall be complied with by the respondents within a period of 4 months.

10. There shall be no order as to costs.

Member J

Member A

/Brijesh/