

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

.....

(12)

Original Application No. 975 of 1997.

this the 16th day of August'2001.

HON'BLE MR. S. DAYAL, MEMBER(A)

HON'BLE MR. S.K.I. NAJVI, MEMBER(J)

S.L. Verma, aged about 46 years, S/o Sri D.P. Verma, R/o  
Plot No. 127, Sanjai Gandhi Marg, Kanpur.

Applicant.

By Advocate : Sri M.K. Upadhyay.

VERSUS.

1. Union of India through the Secretary, Ministry of  
Defence, Production, Government of India, New Delhi.
2. The Chairman Ordnance Factory Board, Director General  
of Ordnance Factories (DGOF), 10-A Auckland Road,  
Calcutta.
3. General Manager, Field Gun Factory, Kalpi Road,  
Kanpur.

Respondents.

By Advocate : Sri Ashok Mohiley.

O R D E R . ( O R A L )

S. DAYAL, MEMBER(A)

This application has been filed seeking directions  
to the respondents to re-consider the case of the applicant  
for notional promotion and allow the fixation of pay from  
14.8.1986 and pay the arrears of salary with interest @ 18%.

2. The case of the applicant is that the applicant was  
appointed as Engraver (semi-skilled) in the year 1979 and  
an Expert Classification Committee was set-up, later on which  
recommended the <sup>incumbents on the</sup> post of Engraver semi skilled in the grade

*[Signature]*

of Rs. 210-290/- would get promotion to Engraver Highly skilled in the grade of Rs. 330-480/-. It is claimed that all the factories barring the Field Gun Factory, Kanpur, implemented the recommendations of Expert Classification Committee. The applicant had, therefore, filed O.A. no. 874/89 before the Tribunal, which was allowed vide judgment dated 29.9.1995. The respondents granted the promotion to the post of Engraver H.S. II w.e.f. 14.8.86 and thereafter the promotion to the post of Engraver H.S. I on 12.11.1993. It is claimed that the promotions were due to the applicant two years earlier than the dates on which it were allowed. It is claimed that the orders dated 18.2.96 and 23.3.96, which were passed after the judgment was delivered, deprived the applicant from the financial benefits to which he was entitled to get arrears for the period from 14.8.86 to 12.11.93. The applicant made a representation to the General Manager, Field Gun Factory, Kanpur, but the same has not been replied to. We find from the Counter reply that the representation of the applicant dated 23.12.96 was received by the respondents raising the issue for grant of benefits of pay from 14.8.86 to the post of Engraver H.S. II in the grade of Rs. 1200-1800/- and further from 12.11.93 and also for the arrears to the post of Engraver H.S. I in the grade of Rs. 1320-2040/-.

3. We also find from the Counter reply of the respondents (paras 19 & 20) <sup>that</sup> the grant of promotion to the applicant to the post of Engraver H.S. II w.e.f. 14.8.86 is the admission of the fact that the applicant had been discriminated against others and was entitled to be promoted Engraver H.S. II on the basis of promotions granted in Small Arms Factory, Kanpur.

*[Signature]*



4. The learned counsel for the applicant has relied-upon the decision in the case of Amar Singh Vs. Union of India & Others (1989) 10 A.T.C. 328), in which the principal Bench has laid down the following with regard to the arrears of salary:

"The other contention of the respondents that since the petitioner did not discharge the work of Assistant or Assistant Superintendents/S.O., he cannot be paid the arrears of salary for the retrospective period can be easily dismissed in view of the umpteen rulings given by the various High Courts and the Supreme Court to the effect that promotion with retrospective effect entitled the Government servant to arrears of salary. The view taken by various Courts has been that if the Government issued the order of promotion long after the promotion had actually become due and the Government was preventing the employee from discharging the duties of the promoted post for no fault of his, the employee cannot be denied the arrears of pay and that Government cannot take advantage of their error or delay or illegal order in not promoting the officer in time, by not paying the arrears. This view was held in Charan Dass Chadha Vs. State of Punjab, (1980) 3 SLR 702, (P&H), Sri K.K. Jagia Vs. State of Haryana, 1972 SLR 578 (P&H), Mrs. Asha Rani Vs. State of Haryana, (1983) 1 SLR 400, P.P.S. Gumber Vs. Union of India (1984) 2 SLJ 631, J.S. Arora Vs. Union of India (1983) 3 SLR 589 (Del) and State of Mysore Vs. C.R. Sheshadri (1974) 4 SCC 308; 1974 SCC (L&S) 264; AIR 1974 SC 640."

5. We are of the view that the applicant is also entitled to the benefit of arrears from the retrospective date if the Small Arms Factory had <sup>been</sup> promoted from <sup>others similarly situated</sup> the retrospective date, and paid arrears of salary for the period they had not actually worked on the post. The applicant shall not be discriminated incase other employees of Small Arms Factory, Kanpur, had been paid the arrears for the period they had not actually worked on the post. The respondents shall consider the case of the applicant regarding payment of arrears of salary within a period of two months from the date of communication of this order.

6. The O.A. stands disposed of as above with no order as to costs.

GIRISH/-

MEMBER (J)

MEMBER (A)