

OPEN COURT

* CENTRAL * ADMINISTRATIVE * TRIBUNAL
* ALLAHABAD BENCH*
ALLAHABAD

Original Application No. 843 of 1998
Allahabad, this the 29th day of ^{July} 2003.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER A
HON'BLE MRS MEERA CHHIBBER, MEMBER J

1. Shri M.S. Goasain S/o Late Shri B.S. Gosain,
384, Indira Nagar Colony, Dehra Dun ;
2. Shri Ashok Kumar S/o Shri Attar Singh,
R/o 47-C, D.L. Road Dehra Dun ;
3. Shri Y.K. Gupta S/o Shri K.L. Gupta,
R/o 194 Karanpur, Dehra Dun;
4. Shri O.P. Shah S/o Shri G.P. Shah, R/o
R/o 18/1, Panditwari, Dehra Dun;
5. Shri Kamal Uniyal S/o Shri H.B. Uniyal,
R/o 94, Vasant Vihar, Dehra Dun.

-----Applicants.

By Advocate : Shri Sudhir Agrawal

Versus

1. Union of India represented through
The Secretary to the Govt. of India,
Ministry of Defence, South Block,
New Delhi.
2. The Director General of Military Training,
General Staff Branch, Army Headquarters,
DHQ, New Delhi - 110011;
3. Commandant,
Indian Military Academy,
Dehra Dun - 248004.

-----Respondents.

By Advocate : Shri G.R. Gupta

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O R D E R(_O_R_A_L_)

BY HON'BLE MRS MEERA CHHIBBER, MEMBER J

This O.A. has been filed by as many as 5 persons claiming the following relief(s) :

- " (i) That suitable direction be given to the respondents to grant the consequential benefits as a result of the Grant U.G.C. pay scale of Rs.500-900 to the applicant w.e.f. 01.1.1983 and the arrears of pay and allowances on such fixation be paid to them within a reasonable period to be fixed by this Tribunal.
- (ii) That the entire length of service rendered by the applicant be counted for the purpose of promotion.
- (iii) That the applicant be given a personal pay scale of Rs.2200-4000 without change of designation and duties on completion of 16 years of service or on attaining basic pay of Rs.2700/- in the pay scale of Rs.1740-3000 whichever is earlier as in the case of Lecturers.

2. It is submitted by the applicant's counsel that they are working as Demonstrators in Army Cadet College(A.C.C.) Wing of Indian Military Academy(I.M.A.), Dehradun. The applicants are civilian employees under the Military of Defence. As per their averments applicants were appointed as Demonstrator on different dates mentioned against their names as August, 1977, December, 1978, October, 1983, April, 1984, and July, 1984. They have submitted that the ACC Wing of IMA, Dehra Dun like National Defence Academy, Khadakwasla is an affiliated Institute of Jawaharlal Nehru University imparting education to Cadets at Under Graduate level just like any other Degree College of any University. Thus, they have submitted that they belong to teaching staff and as such they are entitled to be treated at par with their counterparts in Degree Colleges. ACC Wing, IMA, Dehra Dun has accepted as

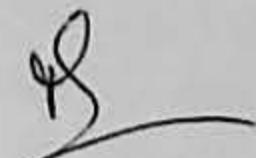


.....3/-

a recognised Institution of J.N.U.. They have further referred to letter dated 15.2.1993 which shows that U.G.C. pay scales were extended to the other teaching staff of N.D.A. and A.C.C. Wing of I.M.A., Dehra Dun w.e.f. 01.01.1983. They have submitted that the pay scale recommended by the U.G.C. for Demonstrator in colleges was Rs.500-900 w.e.f. 01.1.1983 and Rs.1740-3000 from 01.01.1983. However, they were given pay scale of Rs.380-560 w.e.f. 01.01.1973 and Rs.1320-2040 w.e.f. 01.01.1986. Being aggrieved they gave representation to the authorities which was turned down. The applicants filed their O.A. bearing No. 537 of 1989, which was allowed by judgment dated 16.2.1996 directing the respondents to allow to the applicants the scale of pay of Rs.1740-3000 recommended by the University Grant Commission from the date of benefit of U.G.C. scales of pay has been extended to other members of the teaching staff of the Army Cadet College. The said pay scale was challenged by the respondents in Hon'ble Supreme Court but even the S.L.P. ^{wide B} was dismissed ~~strike~~ order dated 17.1.1997(Annexure-A-VIII).

3. Applicants have, thus, submitted that once the judgment of the Tribunal had become final ^{they were 12} and entitled to ~~applicants~~ the pay scale recommended by U.G.C. in regard to Demonstrator in college affiliated to various Universities. It is in this context that the applicant have submitted that since this scale of pay of the Civilian Academic staff at N.D.A. Khadakvasla and ACC Wing, IMA, Dehra Dun was revised by the respondents w.e.f. 01.01.1983, they also became

entitled to the said scale of Rs. 500-900 w.e.f. 01.01.1983. It is further submitted by the applicants that pursuant to the judgment, of the Tribunal dated 16.2.1996, respondents published a D.O. Part II No. 47 dated 11.4.1997 (Annexure-A-ix), fixing the pay ~~to~~ ^{of applicants in the pay scale 5-8} Rs. 500-900 w.e.f. 01.01.1983 and 1740-3000 w.e.f. 01.01.1986. However, while granting annual increment, a mistake was committed as, instead of Rs. 20/- increment of Rs. 25/- was granted vide D.O. Part II No. 53 dated 02.5.1997 (Annexure-AX), as a result of which that pay fixation bill, which was prepared and sent to CDA(CC) Meerut for sanction, was returned by him on the ground that the rate of annual increment was not correctly granted. After carrying out the correction pay fixation proformas alongwith service books in respect of the applicants were re-submitted ^{in the scale 5-} to CDA(P) Meerut for approval of Rs. 1740-3000 w.e.f. 01.1.86, ^{he is} but did not approve the pay fixation in the pay scale of Rs. 500-900 w.e.f. 01.1.1983. Being aggrieved they gave legal notice on 09.2.1998 (Annexure -A-XIV) claiming relief of payment of arrears of pay w.e.f. 01.01.1983 along with interest @ 18% per annum. Instead of rectifying the mistake, respondents cancelled D.O. Part II No. 53 vide D.O. Part II No. 24 dated 19.2.1998 in respect of applicant no. 3 to 5. The grievance of the applicant, therefore, is that once ^{been} they had/granted the scale of Rs. 500-900 to all the applicants it could not have been subsequently cancelled altogether nor could they have been denied the arrears of account of pay fixation from 01.01.1983 altogether.



4. We have heard counsel for the applicant as well as counsel for the respondents. Though the respondents have not filed any Counter Affidavit till date, but on the basis of Counter Affidavit which was said to have been prepared by the respondents, their counsel submitted that in compliance with the judgment given by this Tribunal in earlier O.A, all the applicants have already been given the benefit of U.G.C. pay scale w.e.f. 01.01.1983 and arrears of pay have also been paid to the applicants. Since neither any Counter Affidavit has been filed nor we have been shown any order to that effect by the respondents, therefore, we have to decide the O.A. on ^{the basis of} claims made by the applicants and statement made by the respondents' counsel.

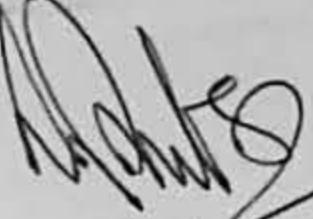
5. Perusal of Annexure-A-ix) shows that as per the judgment given by Central Administrative Tribunal on 16.2.1996 in O.A. No. 537 of 1989 the applicants were ~~fit~~ placed in the U.G.C. pay scale w.e.f. respective dates of their appointments in the scale of 500-900 and were further placed in the pay scale of 1740-3000 w.e.f. 01.01.1986 (Page 54). However, vide D.O. Part II No. 24 dated 19.2.1998, the earlier D.O. Part II was amended and the applicants were placed in the U.G.C. pay scale w.e.f. 01.01.1986 and the D.O. Part II with regard to applicant no. 3 to 5 was specifically cancelled. It is not understood as to how respondents could totally deprive the applicants of their U.G.C. pay scale w.e.f. their respective dates of appointments, once it was given to them by the order dated 11.4.1997. The law is well settled by now that any order which suffers ~~consequently~~ ^{any civil consequences} should not be passed

without following due process of law or without putting the person concerned on notice. In fact, counsel for the respondents had stated that all the applicants have already been given the U.G.C. pay scale w.e.f. 01.1.1983 or dates of their appointments in the scale of Rs. 500-900 and in the pay scale of 1740-3000 w.e.f. 01.1.1986. If they have already been paid the arrears w.e.f. the respective dates of their appointments that would be ^{the} end of the matter. But, since neither of the parties were in ^a position to clarify the position nor there was any documents on record whether ^{they} have to show that they had not been paid the benefit of U.G.C. scale w.e.f. 01.1.1983 ~~or~~ ^{or from} their initial date of appointments or not, we can only say at this stage that respondents should verify the records and, in case, applicants have not yet been paid the arrears w.e.f. 01.1.1983, the same may be paid to them. Within a period of 4 months from the date of receipt of a copy of this order, alongwith due and drawn statement. We are also not aware as to whether the respondents have since further modified their order dated 19.2.1998 or not. The very fact that respondents have themselves stated that applicants have already been paid the arrears of U.G.C. scale w.e.f. 01.01.1983, would necessarily mean that the order dated 19.2.1998 would have been further modified. Once again respondents would have to check their records and in case the order dated 19.2.98 has not yet been modified, the same would be required to be modified to the extent that applicants would be entitled to the U.G.C. scale/500-900 w.e.f. the respective dates of their appointments as they have already said that the said arrears have already been paid to the applicants. Therefore, in case,

respondents have not yet been issued any further order they are directed to clarify the position by issuing a fresh order to that extent.

6. Since, respondents have now admitted that applicants were paid the U.G.C. scale of Rs.500-900 w.e.f. 01.1.1983, it goes without saying that any benefit which accrued therefrom in accordance with law would be available to the applicants on the basis of such grant of U.G.C. scale. The necessary orders, if not passed by the respondents to this effect, shall be passed by them within the same period of 4 months from the date of receipt of a copy of this order. With the above direction this O.A. is disposed of with no order as to costs.


Member J


Member A

Brijesh/-