

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO.1302 OF 1998.

Dated: Allahabad this the 4th day of Dec 2005.

Hon'ble Mr. S.C. Chaube, Member-A
Hon'ble Mr. K.B.S. Rajan, Member-J

1. Dr. V.K. Misra, S/o late Amar Nath Misra, R/o 44, Ramanand Nagar, Bhardwaj Puram, Allahabad.
2. D.N. Ram, S/o late B.R. Maurya, R/o 435/248, Baghambari Housing Scheme, Kidwai Nagar, Allahpur, Allahabad.
3. T.R. Gupta, S/o late Manohar Ram Gupta, R/o 637/23/47/10 Matiyara Road, Allahpur, Allahabad.

.....Applicants.

By Adv: Sri H.S. Srivastava

V E R S U S

1. The Union of India through Secretary, Ministry of Defence (Personnel), New Delhi.
2. The Financial Advisor, Ministry of Defence (Finance), New Delhi.
3. The Controller General of Defence Accounts, West Block, V, R.K. Puram, New Delhi.
4. The Chief Controller of Defence Accounts (Pensions), Draupadighat, Allahabad.
5. The Controller of Defence Accounts (PD), Belvedere complex, Meerut Cantt.

.....Respondents.

 By Adv: Sri S. Singh

ORDER**BY K.B.S. RAJAN, MEMBER-J**

The impugned order in this case reads as under:-

"Headquarters has intimated that the orders of judgment pronounced by different Tribunals cannot be made applicable to similarly circumstanced officers. As such, the request as contained in your above cited application cannot be acceded to."

2. If the case of the applicants is similarly circumscribed as that of the applicants in the other cases relating to the judgment pronounced by different Tribunals, then the OA straightway is to be allowed in view of the following decision of the Apex Court and the Recommendations of the Fifth Central Pay Commission:-

(a) It is settled law that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court. (**Amrit Lal Berry v. CCE, (1975) 4 SCC 714, at page 728**)

(b) V Central Pay Commission Report at para 126.5 as under:-

"We have observed that frequently, in cases of service litigants involving many similarly placed employees, the benefit of judgments is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of the Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others vs UOI and others (OA 451 and 541 of 1991), wherein it was held that the



entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like *G.C. Ghosh vs UOI* (1992) 19 ATC 94 (SC) dated 20-07-1988; *K.I. Shepherd vs UOI* (JT 1987 (3) 600); *Abid Hussain v s UOI* (JT 1987 (1) SC 147) etc., Accordingly we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of government employees is concerned and not in matters relating to a specific grievance or anomaly of an individual employee."

3. Now a brief facts of the facts as contained in the OA and the retort of the respondent as contained in their CA with a view to ascertaining whether the applicants had been similarly circumscribed as those of the applicants in whose cases judgments were pronounced as stated in the impugned order.

4. Facts as narrated by the applicants:

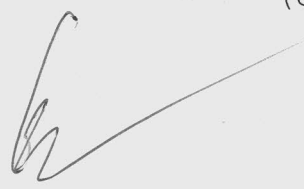
(a) The particulars of the applicants are given below:-

Sl No	Name	Date of Birth	Dt. of appoint. In Deptt	Dt. of promotion as AO	Promotion as IDAS	Dt. of Retd.
1.	Dr. V.K. Misra	12.7.36	4.11.55	29.10.77	11.11.93	31.7.94
2.	D.N. Ram	31.7.37	3.4.58	20.4.80	9.8.94	31.7.95
3.	T.R. Gupta	12.6.37	26.12.59	2.6.80	9.8.94	30.6.95

(b) The applicants were assigned the duties and responsibilities of Group Officer and were given the Group charge vide Annexure A-5, A-6, A-7 and A-8 respectively.

- (c) Few Accounts Officer who were promoted earlier to the IDAS cadre Group 'A' service and given the Junior Time Scale of Rs. 2200-4000, but assigned the duties of Group Officer approached the Hon'ble High Court of Delhi and various Benches of the CAT for grant of senior Time Scale of pay on the principle of equal pay for equal work.
- (d) The Hon'ble High Court of Delhi in Writ Petition no. 1342 of 1972 (K.G. Menon & Others Vs. Union of India) and the Principal Bench of Hon'ble Tribunal in O.A. no. 1100 of 1989 (P.D. Mohkar Vs. Union of India), O.A. no. 57 of 1988 (Padam Kumar Jain & Others Vs. Union of India) and O.A. no. 2356 of 1993 (K.S. Rangaswamy Vs. Union of India & Others) have granted relief to the applicants in the senior time scale from the date they were appointed to the IDAS with other consequential benefits.

5. Facts as narrated by the respondents in their Counter Affidavit are as under:

- (a) There is no rule by which the Junior Time Scale officers are to be paid senior Time Scale. It is not a fact that they were discharging the duties of Group Officers.
- (b) Senior Time scale officers when appointed as Group Officers supervise the work of ACSDA (Junior Time Scale of Officers). Such charge was never given to the petitioners.
- (c) The judgment pronounced by the Tribunal is not a general applicability and is specifically applicable to the applicant who filed the petition and that the
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applicants were silent for more than 3 years after the cause of action arose in the year 1993/94 and, therefore, this application is rendered hopelessly time barred.

6. Arguments were heard and documents perused. In so far as the facts of the case are concerned, they were broadly admitted, except that at one stage, a faint objection was raised by the counsel for the respondents that the applicants were not asked to perform the function of supervision of other ACDAs which was one of the functions of the group in charge. This objection ought to be summarily rejected as admittedly the respondents had paid the special allowance in 2000 to all the applicants purely on the ground that they had en-shouldered higher responsibilities of Group in Charge. The applicants are stated to have received the said amount under protest.

7. In the cases relied upon by the applicants, all were regularly appointed as IDAS officers and all had shouldered higher responsibility of Group in Charge. In the first Case decided by the Hon'ble High Court of Delhi, (K.G. Menon CWP 1342/1972 of the Hon'ble High Court of Delhi) it has been clearly held, ***"In my opinion, therefore, the only conclusion which can be arrived at is that if an officer is asked to work in a post which is in the senior time scale then he would be entitled to receive salary in***

that scale. Even if it be assumed, for the sake of argument, that the post in the senior time scale is a promotion post even then, to my mind, the petitioners would be entitled to receive salary in the higher scale."

8. In the case of P.D. Makkar (OA 1100/89) and Padam Kumar Jain OA 57/1988), the Tribunal had placed reliance on the case of K.G. Menon and held, "Thus, the benefit which has already been given to persons similarly placed as are the applicants herein, cannot be denied in the instant applications."

'Rangaswamy' (OA No. 2356/93) relied upon K.G. Menon and the ^{Tribunal} OA, citing the above passage of the Hon'ble High Court had allowed the OA.

9. Now a look at the details to ascertain whether the applicants were similarly placed as those whose judgments were relied upon by them: The following table would surface out the same.


Individuals	Date of promotion as A OA	Date of induction on promotion in IDAS	Whether asked to function as Group Incharge	Remarks.
Applicant No. 1	29-10-1979	11-11-1993	Yes. (Annx A-5)	
Applicant No. 2	29-04-1980	09-08-1994	Yes (Annx A-6)	
Applicant No. 3	02-06-1980	09-08-1994	Yes (Annx A-7)	
K.G. Menon (First Petitioner in WP)	Not given	31-01-1976	Yes (page 11 of Annx CA 6)	
Mangal Ram		01-04-1987	Yes. Para 2 of	Following

(OA 757/96)			CA 8	judgment in the case of Rangaswamy
H.P. Jain (OA 766/96)	Not given	January, 1994	Yes. 26-03-88 Para 2 of Annx CA 8	-do-
T.P. Singh Harit (OA 853/96)		01-04-1988	Yes . 01-04-1988 Para 2 of CA 8	-do-
Hari Singh (OA 919/96)	Not given	01-04-1987	Yes (from 17-1-90 vide para 2 of Annx CA 8	-do-
K.S. Rangaswamy (OA 2356/93)	07-09-1977	28-03-1988	Yes (Annx A-1, Para 1)	Following the case of KG Menon, OA allowed.
P.D. Makkar (OA 1100/89)	Not given in judgment	21-09-1979	Yes (para 1 of Annx A-10)	As above. Bangalore Bench case also relied on.
Padam Jain (OA 57/88)	Not given in judgment	21-09-1979	As above.	As above. Para 4 & 5 of Annx A 10

10. The above details in crystal clear term show that the applicants are similarly circumstanced. Thus, when the applicants are similarly situated, there is no reason to deny the benefit of the higher pay scale of Rs 3,000 - 4,500/- during the period they functioned as IDAS officers, shouldering the higher responsibilities of Group in Charge, in the light of the judgment of the Apex Court in A.L. Berry (Supra), the Pay Commission Recommendations vide para 126.5 extracted above and the precedents relied upon by the applicants; we have no hesitation to come to the conclusion that the applicants are entitled to the higher pay for the period they held the higher functional responsibilities of Group in charge. As their holding the higher responsibilities continued till the applicants had

retired from service axiomatically, they are entitled to the fixation of pension and other benefits on the basis of the last pay/last ten months average pay drawn by them and since in all the aforementioned cases the applicants were made entitled to the arrears of pay, the applicants are also entitled to arrears of pay and allowances being the difference in pay as they drew in the scale of Rs 2,200 - 4000 and the one due in the scale of Rs 3,000 - 4,500 as reduced by the extent of the special allowances paid to them.

11. In view of the above, **the OA succeeds.** The respondents are directed to fix the pay of the applicants for the period they were directed to shoulder higher functional responsibility of Group in charge and work out the difference in the pay and allowances by drawing a formal due and drawn statement. From the amount payable to them by way of difference in pay and allowance, the extent of special allowance paid to them be deducted and the balance be paid to the applicants. This exercise shall be completed within a period of four months from the date of receipt of this order. No costs


MEMBER-J


MEMBER-A

GIRISH/-