

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Original Application No. 650 of 1992

D.S.L. Srivastava ... ... ... ... ... Applicant.

## Versus

Union of India and Others ... ... ... Respondents

Hon'ble Mr. S. Das Gupta, Member-A  
Hon'ble Mr. T.L. Verma, Member-B

(By Hon'ble Mr. S. Das Gupta, Member-A)

In this application filed under section 19 of the Administrative Tribunal Act 1985, the applicant has approached this Tribunal seeking the relief of a direction to the respondents to pay the petitioner higher salary as applicable on 11.6.1986 and not to deduct any amount from the petitioner's salary on the ground of alleged over payment. The petitioner has also prayed that the impugned letters dated 29.1.1992 (Annexure-3), 25.12.1991 (Annexure-4) and 29.1.1992 (Annexure-6) by which earlier fixation of salary at the higher level has adversely affected be quashed.

2. The facts of the case giving rise to the application are that the applicant who was a Senior Store Keeper in Air Force station Manauri Allahabad was promoted to the post of stores Superintendent on 11.6.1986 and his pay was fixed at Rs. 640 per month in the higher pay scale of Rs. 455 - 700. The recommendation of the IV pay commission were published in September 1986 and on the basis of the recommendation the petitioner's pay was fixed at Rs. 1950 w.e.f. 11.6. 1986 in the revised

scale of pay. Subsequently, on the basis of IV pay commission recommendation the two grades viz Senior Store Keeper and stores Superintendent were merged and given a common pay scale of Rs. 1400-2300. This merger was made effective retrospectively from 1.1.1986 and this was notified by Ministry of Defence letter dated 29.9.1986 circulated by H.Q. Maintenance Commanded, Indian Air Force Letter dated 22.8.1987 (Annexure A-1). On the issuance of this letter the respondent No. 1 vice his impugned letter dated 29.5.1989 directed the Controller of Defence Accounts (Air Force) that since ~~restructuring~~  
~~the restructuring~~ was w.e.f. 1.1.1986, there was no question of promotion from one grade to another after these has been merged w.e.f. 1.1.1986. Thereafter the respondents No. 3, vide impugned letter dated 25.12.1991 informed the petitioners that his pay was fixed wrongly at Rs. 1950 and that his pay was refixed at Rs. 1850 w.e.f. 11.6.1986. The petitioner submitted a representation against refixation of pay but by the impugned letter dated 29.1.1992 his representation was turned down. This led the applicant <sup>to</sup> approach this Tribunal seeking the relief aforementioned.

3. The petitioners case is that his pay was rightly fixed at Rs. 1950 by giving the benefit of fixation of pay on promotion from one grade to another and this could not be adversely affected by merger of 2 grades which took place with retrospective effect, in view of clear explanatory memorandum at the end of the letter dated 29.9.1986 that retrospective effect being given to the civilian in Defence services (Revised pay) rules 1986 will not affect adversely any employee to whom this rule is applicable.

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4. The respondents have stated in the Original Application that the petitioner's pay was fixed in the revised pay scale of Rs. 1400 - 2300 at Rs. 1850 and he was erroneously granted an increment of Rs. 100 fixing his pay at Rs. 1950 on 11.6.1986. The respondents contend that this increment was wrongly given under the impression that increment due for promotion in the old pay scale w.e.f. 11.6.1986 shall be applicable to the revised pay scale also although both the grades stood merged and given common pay scale of Rs. 1400-2300. w.e.f. 1.1.1986.

5. In the similar case of a Senior Store Keeper of Air Force Station Chakori Kampur, who was also promoted as Stores Superintendent at 21.2.1986, this Tribunal has taken the view that no adverse affect on the pay of the employee could be caused by implementation of the recommendation of the IV Pay Commission. The Tribunal directed the respondents to refix the pay of the applicant in the light of the observations made in the said order within the period of 3 months from the date of communication of the order and that no recovery from the salary of the applicant be made till then. A copy of the Judgement and Order dated 30.4.1993 in C.A. No. 893 of 1989 was made available to us by Sri Sanjay Kumar learned counsel for the applicant who prayed that in present application also a similar direction be issued.

6. Since the present application is <sup>in</sup> parimateria with the C.A. No. 893 of 1989 which has been disposed of by the Judgement and Order of this Tribunal dated

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30.4.1993, we direct the respondents that the pay of the applicant in the petition before us would also be refixed in the light of observations made in the said order dated 30.4.1993 within ~~the~~ period of 3 months from the date of communication of this order, till then no recovery of alledged over payment be made from the salary of the applicant.

7. There shall be no order as to costs.

  
Member-J

  
Member-A

Allahabad, Dated 19 May 1994.

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