

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
AT NAINITAL.

.....

Original Application No. 20 of 2002 (U)

this the 24th day of April 2003.

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

K.S. Panwar, aged about 63 years, S/o Sri A.S.

Panwar, 43, Alakananda Enclave, CMS Road, Kanwali,
Dehradun.

Applicant.

By Advocate : Sri K.C. Sinha.

Versus.

1. Union of India through Secretary to the Govt.
of India, Ministry of Science & Technology,
Department of Science & Technology, Technology
Bhawan, New Mehrauli Road, New Delhi.
2. Surveyor General of India, Survey of India
Hathi Barkala Estate, Dehradun.

Respondents.

By Advocate : Sri R.C. Joshi.

ORDER

BY MAJ GEN K.K. SRIVASTAVA, MEMBER(A)

In this O.A. filed under Section 19 of the
A.T. Act, 1985, the applicant has sought the
following reliefs:

- "(i) A direction may be issued to the
respondents 1 and 2 that the petitioner
may be placed in higher pay scale of
Rs.14300-18300 with effect from 20.1.1996
on the crucial day of 13 years qualifying
service in Group 'A' in Survey of India.
- (ii) A further direction may be issued to the
respondents 1 and 2 to make the payment
of difference of the higher pay scale
and the payment which has already been
made, alongwith its arrears w.e.f.
20.1.1996.

(ii-a) A further direction may be issued to the respondents to revise the pensionary benefits of the petitioner w.e.f. 1.5.97 as per the aforesaid higher pay scale and to pay the arrears thereof to the petitioner alongwith 24% interest.

(iii) A further direction may be issued to respondents to pay all the arrears of the aforesaid higher pay scale of Rs.14300-18300/- and revised pension alongwith 24% interest as it has been illegally withheld by the respondents.

(iv) -----.

(v) -----."

2. The facts of the case, in short, are that the applicant was inducted as Group 'C' employee in TTT 'B' on 26.12.1960 in the respondents' establishment. He was promoted as Officer Surveyor (Group -B Gazetted) on 20.1.1983, as Supdt. Surveyor (Group-A) and on 9.7.1993 as Deputy Director. The applicant superannuated on 30.4.1997. The claim of the applicant is that as per Vth Pay Commission recommendations, he is entitled for Functional Grade of JAG on completion of 13 years of service w.e.f. 21.1.1996, which has been denied to the applicant. Aggrieved by this, the applicant has filed this O.A. which has been contested by the respondents by filing Counter reply.


3. Sri K.C. Sinha, learned counsel for the applicant submitted that as per para 4 of the O.M. dated 6.6.2000 issued by the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), the applicant is entitled for the pay-scale of Rs.14300-18300/- w.e.f. 21.1.1996 having completed 13 years of service in Group 'A'. The learned counsel for the applicant further submitted that the action of the respondents in not granting the Functional Grade of JAG (Rs.14300-18300) is arbitrary and illegal on the ground of clarifi-

cation received by the Department of Telecommunications from the Ministry of Finance conveyed through the Department of Telecom circular number 1-4(39)/98-PAT dated 26.4.2001 (Annexure CA-4 to the Counter). The learned counsel for the applicant also submitted that the contention of the respondents that the Ministry of Finance is nodal Ministry is misconceived. Infact, the nodal Ministry for clarifying such situation is the Department of Personnel & Training and not the Ministry of Finance.

4. Resisting the claim of the applicant, Sri R.C. Joshi, learned counsel for the respondents submitted that the applicant is not entitled for the Functional Grade of JAG (scale of Rs.14300-18300) as has been clarified by the Ministry of Finance when a similar issue was raised before the Ministry of Finance by the Ministry of Telecommunications. The decision of the Ministry of Finance is binding on all and, therefore, the O.A. is devoid of merits and the same needs to be dismissed.

5. We have heard the counsel for the parties, considered their submissions and closely perused the material on record.

6. The short controversy in this case is whether the applicant is entitled for grant of Functional Grade of JAG (Scale of Rs.14300-18300) under the provisions contained in para 4 of the O.M. dated 6.6.2000 or not? The sole contention of the applicant is that he had completed 13 years of regular service in Group 'A' on 20.1.96 and, therefore, he is entitled for the pay-scale w.e.f. the same date till he superannuated on 30.4.1997.



7. The respondents, on the other hand, have argued that as per clarification of the Ministry of Finance contained in Government of India, Department of Telecom. circular letter dated 26.4.2001 (Annexure CA-4), the applicant is not entitled for grant of Functional Grade of JAG (Rs.14300-18300) as he had already retired before 6.6.2000. We have carefully perused the O.M. dated 6.6.2000. Para 4 of the said O.M. reads as under :

"Only a higher eligibility criterion of thirteen years of regular Group 'A' service has now been prescribed for appointment to the posts of Superintending Engineer and equivalent in the functional scale of pay of Rs.14300-18300.

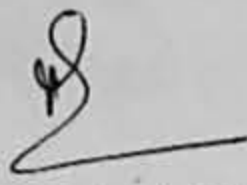
Placement in the higher scale of pay does not, however, involve assumption of higher responsibilities in the case of regular incumbents of the post in the pay-scale of Rs.12000-16500/- (pre-revised Rs.3700-5000). Appointments to this scale of pay will consequently be governed by the instructions contained in paragraph 2.2 of this Department's O.M. no. 22011/1084-Estt.(D) dated February 4, 1992. In other words, in the case of regular incumbents of these posts (Superintending Engineer), who had completed the prescribed qualifying service of thirteen years on or before January 1, 1996, they may be placed in the scale of Rs.14300-18300/- from that date. In the case of other regular incumbents of these posts, who fulfil the qualifying service on a later date, they should be appointed to the scale of Rs.14300-18300/- only from the date on which they complete thirteen years of regular service in Group 'A'. Their placement in the scale will be further subject to the condition that they had been promoted functionally to the posts of Superintending Engineer and equivalent against vacancies and after observing the prescribed selection procedures."

8. Perusal of the above leaves no-doubt, in our mind, that the placement in the scale of Rs.14300-18300/- had to be done after observing the prescribed selection procedure and the respondents could initiate the selection proceedings only on issue of the O.M. dated 6.6.2000. Since the applicant had already superannuated on 30.4.1997 much earlier than the issue of the O.M., referred to above, no selection procedure could be initiated in respect of the applicant and, therefore, we do not find

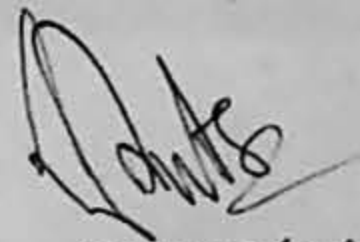
any illegality in the action of the respondents.
There is no good ground for interference by us.

9. In the facts and circumstances of the case and our aforesaid discussions, the O.A. is devoid of merits and is accordingly dismissed.

10. There shall be no order as to costs.



MEMBER(J)



MEMBER(A)

GIRISH/-