

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 12th day of January <sup>2004</sup> Am

Original Application no. 201 of 2002.

Hon'ble Maj Gen K.K. Srivastava, Member (A)  
Hon'ble Mr. A.K. Bhatnagar, Member (J)

M.P. Patel, s/o late Hardas,  
Presently posted as Security Assistant Grade A,  
Garrison Engineer, Engineer Park, New Cantt.  
Allahabad and residing at Triveni Vihar, New Cantt.  
Allahabad.

... Applicant

By Adv : Sri T.S. Pandey & Sri S.D. Tiwari

V E R S U S

1. Union of India through the Secretary,  
Ministry of Defence, DHQ Post,  
New Delhi.
2. Engineer-in-Chief, Army Headquarters,  
Kashmir House, DHQ PO,  
New Delhi.
3. Chief Engineer, Headquarters, Central Command,  
Lucknow.
4. Commander Works Engineer (Air Force)  
Bamrauli, Allahabad.
5. Garrison Engineer, Engineer Park, New Cantt.,  
Allahabad.

... Respondents

By Adv : Sri G.R. Gupta

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O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member (A).

In this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for direction to the respondents to provide the applicant pay scale of Rs. 5500-9000 or the scale of Rs. 5000-8000.

2. The facts of the case, in short, are that the applicant is presently serving as Security Assistant Grade 'A' under Garrison Engineer (in short GE), Engineer Park, Allahabad. The applicant was appointed as Store man in Military Engineer Service (in short MES) in the year 1965. During December 1966, he was promoted to the post of Security Assistant Gr 'C'. Thereafter, he was further promoted to the post of Security Assistant Gr 'A' during the year 1984. Since then the applicant is working as Security Assistant Gr 'A'.

3. The grievance of the applicant is that though the feeder category for AO II, B.SO and C.A.S.O. are Office Supdt./Head Clerks, Supervisor B/S Gr I and Security Assistant Gr 'A', yet the applicant has not been granted the pay scale equivalent to other feeder category persons. Aggrieved by the same, the applicant filed representation before Engineer-in-Chief (in short E-in-C). When no decision was taken on the representation of the applicant, the applicant filed OA no. 760 of 2001 which was disposed of by order dated 5.7.2001 with direction to respondent no. 2 i.e. E-in-C to decide the representation of the applicant in-pursuance of the direction of this Tribunal dated 5.7.2001. Respondent no. 2 considered the fresh representation dated 19.7.2001 and rejected the same by order dated 16.10.2001. Dis-satisfied

with the same the applicant has filed this OA which has been contested by the respondents by filing counter affidavit.

4. Sri T.S. Pandey, learned counsel for the applicant, inviting our attention to annexure 2 & 3, submitted that prior to IV Central Pay Commission (in short CPC) the pay scale of Security Assistant Gr 'A' in MES and Army Ordnance Core was fixed as Rs. 330-560 and during the year 1982 it was revised to Rs. 425-640. This pay scale was higher than that of supervisor B/s Gr II in MES. During IV CPC the pay scale of Security Assistant Gr 'A' and Office Supdt. Gr II was made equal (Scale Rs. 1400-2300) w.e.f. 1.1.1986. This pay scale was higher than the pay scale of supervisor B/s Gr II whose scale was fixed as Rs. 1200-2040. The pay scale of supervisor B/s Gr I was Rs. 1400-2600. However, the V CPC has overlooked the pay scale of Security Assistant Gr A while revising the pay scales of various categories. This fact has been accepted by the respondents. Gross injustice has been done in revising the pay scale of Security Assistant Gr A from 1400-2300 to 4500-7000, whereas the pay scale of Office Supdt. Gr II was revised from 1400-2300 to Rs. 5000-8000, the pay scale of supervisor B/s Grade II was also revised from Rs. 1200-2040 to Rs. 5000-8000, the pay scale of supervisor B/s Grade I has been revised from Rs. 1400-2600 to Rs. 5500-9000. This goes to show that fixation of pay of Security Assistant Gr 'A' lower than that of pay scale of Supervisor B/s Gr II and others is gross violation of Article 14 of Constitution of India.

5. Learned counsel for the applicant also submitted that E-in-C vide letter dated 16.10.2001 has not acceded to the request of the applicant for grant of higher pay scale while deciding the representation. It is apparent that the respondents have not applied their mind and have decided the representation in a routine manner. Infact the pay scale of all the feeder category for AO II should be same. In any case the pay scale of security Assistant Gr 'A' cannot be lower than the pay scale of Supervisor B/s Gr II. Therefore, the applicant is entitled for relief as prayed for.

6. Learned counsel for the applicant finally submitted that as averred in para 18 the applicant is seeking the relief for the benefit of ACP scheme dated 10.5.1998 as the applicant has already ~~served~~ served for more than 12 years on the same post and in the same pay scale which has been provided to his juniors one Sri T.D. Pandey Security Assistant Gr 'A' as well as to Sri S.C. Joshi Security Assistant Gr 'C'. Learned counsel for the applicant submitted that both the juniors could not have been provided the pay scale of Rs. 6500-10500 as the applicant is senior to both the above persons.

7. Opposing the claim of the applicant, Sri G.R. Gupta, learned counsel for the respondents submitted that the order of E-in-C dated 16.10.2001 (Ann 1) is a detailed and speaking order. The pay scale has been revised on the recommendation of V CPC which was an expert body and the Tribunal cannot sit in appeal over the recommendation of the Pay Commission. The Govt. accepted the recommendation of Pay Commission and the pay scales revised for various categories have attained

finality. Any dispute with regard to the pay scales was a subject matter for decision by the anomoly committee and not by this Tribunal.

8. We have heard learned counsel for the parties, considered their submissions and perused the record.

9. The main controversy involved in this case is regarding grant of pay scale of Rs. 5500-9000 or Rs. 5000-8000 to the applicant. Another point which has been raised by the applicant in the rejoinder affidavit is that he is entitled for benefit of ACP Scheme, as the benefit of ACP scheme has been given to his juniors. We would not like to pass any observation in this regard as no relief to that effect has been sought for. It is not a matter of adjudication before us.

10. The main question before us for adjudication is that whether the applicant is entitled for scale of Rs. 5500-9000 or Rs. 5000-8000 or not. The Pay Commission appointed by the Govt. is a body of experts and considers the responsibility and nature of job of each category of various departments. After giving due <sup>weight</sup> consideration to the points given by the various Ministries the Pay Commission recommended the scale of pay for each category. We find substance in the arguments of respondent's counsel that we cannot sit in appeal on the recommendation of the expert body like Pay Commission. The Pay Commission must have considered the responsibility and nature of job of Security Assistant Gr 'A' and would have then recommended the pay scale which has been accepted by the Govt. of India. It is not within the scope of this Tribunal to give any direction

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to the Govt. in regard to the grant of a particular scale to a category.

11. We have carefully gone through the order of E-in-C dated 16.10.2001 (Ann 1). Perusal of the same leaves no doubt in our mind that the same is a detailed and reasoned order. The respondents have very correctly brought out the law laid down by the Hon'ble Supreme Court held in Union of India & Ors Vs. P.V. Hariharan & Ors, 1977 SCC (L&S) 838. The Hon'ble Supreme Court in this case has laid down that the Pay Commission is the proper authority to decide about the pay scales of various categories. It is clear from perusal of para 3 a of the <sup>impugned</sup> order dated 16.10.2001 (Ann A1) that a demand was placed by the Security Staff in MES before V CPC and the CPC recommended the revised pay scale of Rs. 4500-7000 for all Security Assistant Gr. 'A' which has been accepted by the Govt. of India.

12. For the reasons stated above, we do not find any good ground for interference. The OA is devoid of merit and is liable to be dismissed. The OA is accordingly dismissed.

13. There shall be no order as to costs.

Member (J)

Member (A)

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