

OPEN COURT

CENTRAL ADMINISTRATAIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 06<sup>th</sup> day of February 2009.

Original Application No. 1468 of 2003

Hon'ble Mr. Justice A. K. Yog, Member (J)  
Hon'ble Mr. S.N. Shukla, Member (A)

Narain Prasad Tiwari, S/o Sri Ram Prasad Tewari, R/o Q. No. P.-44/3, R.A. Lines, Cantt: Kanpur.

. . . Applicant

By Adv: Sri R.K. Shukla

V E R S U S

1. Union of India through Engineer-in-Chief, Army H Qrs., New Delhi.
2. The Chief Engineer (MES), Central Command, Lucknow.
3. The Garrison Engineer, Kanpur.
4. The Controller of Defence Accounts, Central Command, Carrippa Road, Lucknow.
5. Loco Accounts Officer, LAO (IGS), C.I., Kanpur.
6. Shri Bhagwati Prasad Vikram, S/o Nokhey Lal, C/o Garrison Engineer, M.E.S. Cantt. Kanpur.

. . . Respondents

By Adv: Sri R.K. Srivastava

O R D E R

Hon'ble Mr. Justice A.K. Yog, Member-J

Heard Sri R.K. Shukla, Advocate, learned counsel for the applicant and Sri R.K. Srivastava, Advocate, learned counsel for the respondents. Perused the pleadings on record and documents annexed therewith.

*Am/*

2. Applicant/N.P. Tiwari, has filed present OA, contending that he has been arbitrarily discriminated by making lesser pay as compared to his juniors (particularly respondent No. 6/B.P. Vikram) w.e.f. 05.01.1990. It is alleged that both of them have been holding the post of Switch Board Attendant (Electrical).

3. Respondent No. 6/B.P. Vikram had filed OA No. 280 of 2000 B.P. Vikram Vs. Union of India and others on the ground of discrimination and denial of pay admissible to the post of Switch Board Attendant at par with his junior<sup>9</sup>. In the said OA the applicant was not party. The said OA was finally disposed of by this Tribunal vide judgment and order dated 15.03.2005/Annexure A-5 to the OA. Whereby it is directed to the respondents authorities to dispose of the representation of the applicant/B.P. Vikram pending with them. It appears that this matter was also went to High Court and finally, keeping in view the above referred order of the Tribunal and that of the High Court (in Writ Petition No. 416/01), allowed the said B.P. Vikram to receive salary in the promoted pay scale.

4. Being encouraged, in the aforesaid backdrop of the success of respondent No. 6 the applicant also

prayed that his salary should also be at par with B.P. Vikram who happens to be junior to him. For this purpose he filed representation, photocopy of the said representation dated 12.05.1998 and 11.02.1999 have been filed as Annexure 2 and 3 to the OA. The respondents' authority, has however, rejected the contention and denied the benefit of salary of the applicant at par with said respondent No. 6 by means of impugned order dated 04.09.2003/ Annexure A-1 to the OA.

5. Perusal of the impugned order shows that under this impugned order, respondents have taken stand that respondent No. 6/B.P. Vikram was extend pay by fixing the matter of promotion in view of implementation of the order of the Tribunal in OA No. 280/00 and High Court's order in Writ Petition No. 416/01 and on that ground the respondents have shown their inability to extend similar treatment to the applicant (who has not approached the Court).

6. Stand taken by the respondents in the impugned order is very strange, in case respondents were not satisfied with the order of Tribunal/High Court in the case of B.P. Vikram/respondent No. 6 they should have challenged the said order before appropriate forum/Higher Court, if so advised. Having accuracy to the Court's direction, fixation of pay of



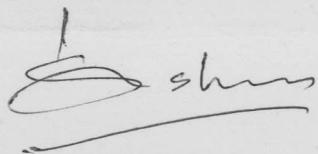
respondent No. 6 at the higher stage they cannot take said ground for denying the same to others or otherwise suggestion (may be in directly) to requiring all other similarly situated persons to approach the Court. Respondents are part of the Government and they are expected to behave as model employer. Once B.P. Vikram/respondent No. 6 granted higher pay to his junior who is similarly situated they should also be granted same benefit and should not be granted to those who are similarly situated (including applicant).

7. In this OA the applicant has claimed relief for issuing writ of mandamus commanding the respondents to grant same pay and allowances to the applicant as his junior (respondent No. 6) has been granted w.e.f. 05.01.1990 and 01.01.1996.

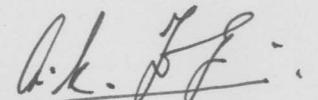
8. In view of the above we direct the applicant to file certified copy of this order alongwith comprehensive representation and copy of this OA (with all annexures) within 04 weeks from today before the concerned competent authority who shall decide the same, if such representation is filed, within three months by passing reasoned/speaking order on the said representation, keeping in view our observation made above

*[Signature]*

9. The OA stands decided subject to above observation/direction. No cost.



Member (A)



Member (J)

/pc/