

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

(THIS THE 30<sup>TH</sup> DAY OF JUNE 2009)

PRESENT

**HON'BLE MR. JUSTICE A.K.YOG, MEMBER-J  
HON'BLE MRS. MANJULIKA GAUTAM MEMBER - A**

**ORIGINAL APPLICATION NO. 316 OF 2003.  
(U/S 19, Administrative Tribunal Act, 1985)**

1. Bimal Kumar Sharma, son of Late Sunder Sharma, B-96 Saraswati Vihar, Ponappa Road, Allahabad.
2. Narendra Prakash Maurya, S/o Late Bindra Dayal Maurya, R/c B-111, Saraswati Vihar, Ponappa Road, Allahabad.
3. Shiva Karti Mishra, S/o Shri Raj Deo Mishra, R/o C-95, Ganga Vihar, Topkhana Bazar, New Cantt., Allahabad.
4. Hanuman Prasad Tiwari, S/o late Ram Raksha Tiwari, R/o 114/5, M.T. Lines, Cariyappa Road Cantt, Allahabad.
5. Shyam Ji Tiwari, S/o Rama Anuj Tiwari, R/o 529-A, Unchwagarhi, Rajapur, Allahabad.
6. Rakesh Kumar Pandey, S/o Raja Ram Pandey, R/o 120/3 M.T. Lines, New Cantt., Allahabad.
7. Smt. Smita Anand, W/o Late A.P Bhanu R/o 182/95, B.H.S. Allahpur, Allahabad.
8. Sanjay Kapil, S/o Shri Om Prakash Kapil, R/o 141-E/10, Rajruppur, Allahabad.
9. Udhithir Kumar Maurya, S/o Late Ram Narayan Maurya, R/o B-132 Saraswati Vihar, Ponappa Road, Allahabad.
10. Manoj Kumar Verma, S/o Shri S.C. Verma, R/128-A/2 Abu Bakar Pur, Preetam Nagar Dhumanganj, Allahabad.
11. Jitendra Singh, S/o Ram Khelawan Singh, R/o C-85 Ganga Vihar, Topkhana Bazar, New Cantt., Allahabad.
12. Raj Kumar Srivastava, Son of Shri S.P Srivastava, Resident of 3/76 Ganga Vihar New Cantt., Allahabad.

Applicants' No. 1 to 9 are presently working as Data Entry Operator "Grade- B" in the office of Principal Controller of Defence Account (Pension), Allahabad.

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Applicants' No. 10, 11 and 12 are presently working as Data Entry Operators "Grade A in the office of Principal Controller of Defence Account (Pension), Allahabad.

.....Applicants.  
(By Advocates: Shri S. Agrawal/Shri S.K. Mishra)

VERSUS.

1. Union of India through the Secretary, Ministry of Defence, Government of India, South Block, New Delhi.
2. The Controller General, Defence Accounts West Block-V, R.K. Puram, New Delhi.
3. The Principal Controller of Defence Accounts (Pension) Allahabad.

.....Respondents

(By Advocate: Shri Anil Kumar Dwivedi)

O R D E R

(Delivered by: Justice A.K. Yog, Member -Judicial)

1. List revised. Shri S.K. Mishra, Advocate on behalf of applicant and Shri Anil Kumar Dwivedi, representing the respondents. Perused the pleadings and the documents on record. Applicant nos.1 to 9 in Grade B and applicant nos.10 to 12 in Grade A are working as Data Entry Operator in the office of Principal Controller of Defence Accounts (Pensions) Allahabad. Claim of the applicant is based on the ground that similarly situated persons and had approached the Tribunal earlier. It is to be noted that Bimal Kumar Sharma and 10 Other persons has filed OA No.440/02 which was finally disposed of by this Tribunal Vide order dated 14.04.2002 (Annexure-9/compilation-II). By means of said OA these applicants challenged respondent's order dated 31.1.2002. For convenience relevant extract of such order dated 31.1.2002 is reproduced:-

(u.)

"With reference to your letter cited under reference HQrs. office has intimated that the CAT Lucknow Bench judgment in OA No. 150/2001 has been referred to the Ministry for their concurrence and the Ministry has directed the respondents to implement the judgment in respect of the applicants only. The individuals may please be informed accordingly.

The CDA (AN) has seen.

Sd. Illegible.  
31.1.2002

Noted:

Sd. Illegible.

Sd. Illegible .....  
Sd. S. J. Tiwari 31.1.2002  
Sd. S. K. Mishra  
Sd. R. K. Pandey 31.1.2002  
Sd. B. K. Sharma 31.1.2002  
Sd. H. P. Tiwari 31.1.02  
Sd. Sanjay Kepal 31.1.02  
8. Sd. Illegible.

Relevant extract of the Tribunal order dated 16.04.2002 is also reproduced:-

"With reference to your letter cited under reference Headquarters office has intimated that the CAT Lucknow Bench judgment in O.A. no.150/02 has been referred to the Ministry for their concurrence and the Ministry has directed the respondents to implement the judgment in respect of the applicants only. The individuals may please be informed accordingly.

3. From the aforesaid order of the Lucknow Bench, it is clear that the stand taken by the department to refuse the relief was not approved and the judgment of Jabalpur and Hyderabad Bench of the Tribunal were treated to judgment in rem and not in ..... it is strange that the respondents have taken the same stand for rejecting the claim of applicants that they were not party before the Lucknow Bench of the Tribunal, while passing the impugned order dated 31.1.2002. It is a serious matter and only causes multiplicity of the proceedings. If a dispute has been decided, the department should have taken are, that the similar disputes and claims raised by the employees are considered in the light of such judgment. The O.A. is accordingly allowed and the impugned order dated 31.1.2002 is quashed. The cases of these applicants shall be examined and the consequential relief shall be granted to the applicants to which they may be found entitled within a period of three months from the date of communication of this order. There shall be no order as to costs".

It appears, some other applicants had also filed another OA No.194/02 which was decided by this Tribunal vide order dated

*Am -*

28.8.2002 (Annexure-10/compilation-II). Relevant extract of the said order is also reproduced:-

*"By this O.A. U/s 19 of A.T. Act 1985, applicant has challenged the order dated 31.1.2002 (Annexure 1) to grant pay scale of Rs.1350-2300 (now revised as 4500-7000) to the applicant w.e.f. 1.1.1986 or from the date of appointment whichever is later has been rejected. This controversy was settled by judgments of Hyderabad and Jabalpur Bench of this Tribunal, which is not disputed. Following the view taken by Hyderabad and Jabalpur Bench, Lucknow Bench of this Tribunal also passed the judgment granting relief to the applicants. The Lucknow Bench considered the whole controversy and disapproved the view taken by the respondents that the benefit given under the orders of Hyderabad and Jabalpur Bench of this Tribunal is confined to the applicant of the case. It was held that this benefit is available to all the persons serving as Data Entry Operators. However, respondents again by order dated 31.1.2002 rejected the application of some applicants which was challenged in this Tribunal in O.A No 440/02. This Tribunal disposed of the O.A. by order dated 16.4.2002 with following direction:-*

*"From the aforesaid order of Lucknow Bench, it is clear that the stand taken by the department to refuse the relief was not approved and the judgments of Jabalpur and Hyderabad Bench of the Tribunal were treated to be judgment in 'rem and not in personum'. It is strange that the respondents have taken the same stand for rejecting the claim of applicants that they were not party before the Lucknow Bench of the Tribunal, while passing the impugned order dated 31.1.2002. It is a serious matter and only causes multiplicity of the proceedings. If a dispute has been decided, the department should have taken care that the similar disputes and claims raised by the employees are considered in the light of such judgment. The O.A. is accordingly allowed and the impugned order dated 31.1.2002 is quashed. The cases of these applicant shall be examined and the consequential relief shall be granted to the applicants to which they may be found entitled within a period of three months from the date of communication of this order. There shall be no order as to costs".*

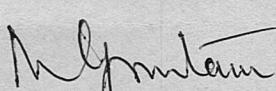
*The claim of the applicant in the present case has been rejected taking the similar view which has been disapproved by this Tribunal. In our opinion, applicant is entitled for relief. Accordingly, this O.A. is also disposed of on the same terms and conditions as provided in the order dated 16.4.2002 passed in O.A No. 440/02. No order as to costs".*

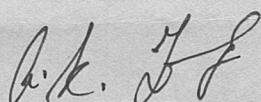
*(Signature)*

2. By means of the impugned order applicants have been denied of treatment on parity/equality on an entirely new ground which appears to have not been raised before Tribunal/Court. The ground for denying relief to the applicants and rejecting their contentions for particular grade w.e.f. 1.1.1986 or from the date of other appointment (whichever may be later) which was denied on the ground ".....and not in elongated scale of Rs.1350-2200....." Respondent cannot take fresh plea and cannot be deprived of the applicants on a new ground and/or which was not taken earlier in the case of other similarly situated persons which had approached the Tribunal.

3. In view of the above, the impugned order dated 10.06.2002 (Annexure-1/compilation-I) is hereby set aside with a direction to consider the claim of the applicant in accordance with law particularly the judgment of the Tribunal as directed by this Tribunal in its order dated 16.04.2002 in OA No.440/02 (Annexure-9/compilation-II) within three months of receipt of a certified copy of this order.

4. OA stands allowed subject to above directions. No Costs.

  
Member-A

  
Member-J

/ns/