

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 350 of 2003

Allahabad this the 26th day May, 2004

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

S.M. Reza, Son of Late Sri Naseeruddin, Resident of Trunk House, Rai Pur Road, Post Office Patti, District Pratapgarh (Uttar Pradesh).

Applicant

By Advocate Shri A.S. Dewakar

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.
2. Administrative Officer for Commandant, Ordnance Branch Fort, Allahabad.
3. Director General of Ordnance Services (05-20) Master General of Ordnance Branch, Army Head Quarter, D.H.Q. New Delhi-110011.

Respondents

By Advocate Shri A.N. Shukla

O R D E R

This O.A. has been instituted under Section 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:-

"(i) issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 30.12.2002.

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondents to extend the benefit of career advancement of Group 'C' and 'D' employees scheme from 1.1.1996 upto date of ..pg.2/-

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applicant's superannuation 30.09.1997 and further be pleased to direct them to pay the arrears of salary of above said period alongwith interest 18% per annum from the due date upto the date of payment.

(iii) issue a writ, order or direction in the nature of mandamus commanding the respondents to refix the pension of applicant on the pay scale of Rs.4500-7000.

(iv) any other writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

(v) award the cost of application to the applicant against the respondents."

2. The brief facts in short are that the applicant was initially recruited to the post of Telecom Mechanic in Ordnance Depot, Fort, Allahabad. He served the department till the age of superannuation i.e. 30.09.1997. After the implementation of IVth Pay Commission report, applicant was given the pay scale of Rs.1320-2040. Applicant reached the maximum scale of Rs.2040/- on 01.01.1995. It is claimed by the applicant that he was entitled to have got a promotion in situ on 01.01.1996 as per O.M. F.No.10(d)E III/88 dated 13.09.1991(annexure-2) but he was not given the benefit of this scheme, which has been extended to other employees, i.e. Shri Om Prakash(annexure-3).

3. In pursuance of the aforesaid scheme, the appointing authority has sent a letter on 10.02.2000 (annexure-4) to the Army Headquarter and recommended the case of the applicant for giving the benefit of scheme. However, the applicant was superannuated on 30.09.97 from the post of Telecom Mechanic without having any benefit of the aforesaid scheme inspite of representations sent to the concerned authorities. The...pg.3/-

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The case of the applicant was forwarded for giving benefit of Career Advancement Scheme by letter dated 17.09.2000. By letter dated 27.02.2001, respondent no.2 i.e. Administrative Officer made it clear that in case of the applicant only career advancement scheme dated 13.09.91 is applicable and not the A.C.P. scheme evolved in 1999. Respondent no.2 again forwarded the case of the applicant for its further consideration to Army Head Quarter(Annexure-7). The applicant made correspondence on number of accounts. Respondent no.2 informed the applicant vide letters dated 18.07.01, 15.03.02, ~~xxx~~ 17.04.02 and 24.05.02 that the case of the applicant is under consideration and the benefit will be extended and accordingly informed to the applicant. The matter was referred to the Army Headquarters, which referred it to the Ministry of Defence and ultimately the applicant was denied his due claim vide order dated 30.12.2002(~~annexure-1~~) on the ground that the benefit of said scheme cannot be implemented after retirement. Hence, applicant filed this O.A.

4. Learned counsel for the applicant raised five grounds in para-5 of the O.A. and submitted that impugned order suffers from gross illegality and it is based on incorrect interpretation of the Scheme dated 13.09.1991. The applicant should have been awarded the next higher pay scale of Rs.4500-7000 on 01.01.1996 as such, the enhanced salary from 01.01.96 to 30.09.97 has been illegally withheld. Therefore, applicant is entitled to the arrears of salary alongwith interest from the date it became due to the date of payment. Accordingly, his pension needs to be revised.

5. Resisting the claim of the applicant, respondents have filed the C.A., which was replied by the rejoinder.

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6. Learned counsel for the respondents has taken preliminary objection that the O.A. is barred by limitation as the cause of action arose to the applicant in the year 1996 and the O.A. has been filed on 13.03.2003. On merits, learned counsel invited my attention to para-8 of the counter affidavit and submitted that the applicant had superannuated on 30.09.1997 and Assured Career Progression Scheme was issued on a later date i.e. 09.08.99, as such, initiation of his case for financial upgradation under A.C.P. Scheme is not possible. Learned counsel further submitted that the case of the applicant was examined by the Ministry and it was informed that claim of the applicant is not possible retrospectively after retirement of the applicant. As regards Shri Om Prakash, it is stated that he was not serving under Ordnance Depot, therefore, he was not a similarly situated person, as alleged by the applicant. Learned counsel for the respondents finally submitted that as the applicant superannuated on 30.09.97 before the implementation of the Vth Pay Commission order, he cannot get the benefit of scheme.

7. I have heard the learned counsel for the parties and perused the record.

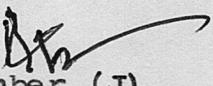
8. Admittedly the applicant retired on 30.09.97 and the A.C.P. Scheme ~~✓~~ came into force on 09.08.99. I have gone through the annexure-1 dated 30.12.2002 by which applicant was informed that it is not possible to implement the scheme retrospectively and to promote a person retrospectively after retirement. I do not find any illegality in the order passed by the respondents ~~as~~

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which
/ has been passed after consultation with the ministry
concerned.

9. In view of the above, O.A. is dismissed being
devoid of merit. No order as to costs.


Member (J)

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