

Central Administrative Tribunal
Calcutta Bench

OA 822/96

Present : Hon'ble Mrs Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Mr.S.Biswas, Member(A)

- 1) Pijush Kanti Sarkar
- 2) Rajat Kr. Sen
- 3) Tapan Kumar Roy Choudhury
- 4) Satyendra Nath Bhattacharjee
- 5) Barun Kumar Das
- 6) Sukanti Lal Bhattacharjee
- 7) Sarbari Ranjan Ghosh
- 8) Bijan Kumar Dutta
- 9) Sukumar Kanjilal
- 10) Alok Bhattacharjee
- 11) Bimal Kumar Mullick
- 12) Tarunendu Ghosh
- 13) Paritosh Ch. Dhar
- 14) Harish Ch. Pandey
- 15) Shankar Nath Neogy
- 16) Sushil Kr. Kundu
- 17) Sunil Kumar Bandyopadhyay
- 18) Athi Kr. Dasgupta
- 19) Sitangshu Ranjan Sarkar
- 20) Durgadas Bhattacharjee
- 21) Alok Nath Chakraborty
- 22) Satya Narayan Chandra
- 23) Sailesh Kr. Jana
- 24) Satyanarayan Sengupta
- 25) Pares Ch. Gupta
- 26) Baidya Nath Dutta
- 27) Amitava Sengupta
- 28) Arun Kr. Ghosh
- 29) Shambhu Nath Tiwari
- 30) Kajal Kr. Ghoshal Choudhuri
- 31) Puspa Lal Das
- 32) Yogish Babu Pandey
- 33) R.P. Sharma
- 34) J.L. Arora
- 35) Devi Sharan
- 36) Kamal Kumar Das
- 37) P.K. Nag
- 38) R.K. Dutta
- 39) Somnath Nan
- 40) Ram Kr. Gupta
- 41) Soumendra Kumar Roy
- 42) Santosh Kumar
- 43) Sadanand Dubey
- 44) Rupen Dutta
- 45) Sankar Prosad Dutta

....Applicants

-Vs-

- 1) Union of India, through the Secretary to the Government of India, Ministry of Defence, New Delhi
- 2) The Director General, Ordnance Factories, 10A, Auckland Road, Calcutta-1
- 3) The General Manager, Metal & Steel Factory, Ichapur, Dist. North 24 Parganas
- 4) The General Manager, Ordnance Factory, Ambajhari, Nagpur
- 5) The General Manager, Rifle Factory, Ichapur
- 6) The General Manager, Ordnance Factory, Kanpur
- 7) The General Manager, Field Gun Factory, Kanpur
- 8) The General Manager, Vehicle Factory, Jabalpur

For the applicants : Mrs U.Sanyal
Mr.T.K. Biswas

For the respondents : Mr.M.S. Banerjee
Mr. R.K. Chatterjee

Mr.S.Biswas, Member(A) :

In this application under Section 19 of Administrative Tribunal Act 1985, the applicants have sought the following reliefs :

i) quashing of the letter dated 4-11-94 and memo dated 25/26-9-95 (Annexure 10 and 12 to OA).

ii) further direction to the respondents for introducing a scheme for granting incentive increments to the applicants w.e.f. the date of acquisition qualifications as were recognised by the Ministry of Defence in their earlier letter dated 2-4-69 (Annexure A1 to OA) as degree or qualification for grant of incentive increments like the ones granted to railway department employees and consequential benefits like arrears. Further, it is sought that grant as envisaged under order dated 28-6-93 (Annexure 9) be directed as be not applicable to the applicants who acquired the prescribed degree or qualification earlier to that date (28-6-93).

2. Briefly stated, the case of the applicant is that certain incentive by way of advance increments to non-Gazetted defence factory employees on technical job were envisaged to be granted under the letter dated 2-4-69 (Annexure A1 to the OA). Accordingly, employees who after joining service passed Sec.A of AMIE or Telecom and Part II of Aeronautical Courses were entitled to grant of advance increments in the scale of pay from that date which he/she was declared by competent authority to have passed the said examination/prescribed Test. The benefit would however accrue w.e.f. 1-12-68 to those who had acquired the requisite additional qualification but the effective date would be date of announcement of passing/qualifying order. Later

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on vide their letter dated 3-10-72, the provisions were further qualified, but consequent on implementation of III Pay Commission's recommendation the said scheme was admittedly stopped by all the Ministries. The Defence Ministry however had issued certain order dated 15-4-81 (Annexure A4) to accommodate certain specific cases where the incumbent had been appointed prior to 15-9-72 and acquired the qualification prior to 1-12-73 thereafter.

3. Meanwhile following the 4th Pay Commission's recommendations where the incentive proposal was revived, but subject to framing of an objective implementational procedure, DOPT issued instructions in this behalf on 15-12-86 which is annexed as A-6 so that the procedure is finalised by 31-3-87. But actually the full text of DOPT letter was indeed not annexed or shown during the arguments hearing of the case. A two paragraph text namely referred about DOPT's letter had set a guideline to finalise the exercise by 13-3-87 (not 31-3-87) with reference to para 29.8 of chapter 29 of the IV Pay Commission's recommendation.

4. Since the procedural guidelines to be set up were being inordinately delayed till upto 1991, some of the applicants joined in a joined CA 1053/91 and filed the same before Calcutta Bench. The order was ultimately passed on 5-3-93 permitting, the ordnance factory authorities to take decision about grant of incentive increments to the applicants within a period of six months and "if the applicants were found entitled, the incentive increments, pay them the requisite amount after

refixation of pay with a further period of 3 months".

5. We have heard the learned counsels of the opposite sides and have gone through the records, submissions and factual and legal points forthcoming in the case as the sole cause of action.

6. The learned counsel for the respondents has assailed the OA mainly on two points. The outcome of the so called OA 1503/91 which was filed by others do not help the applicants in any way though some of them have joined with the applicants of OA 1503/91. It merely gave the respondents time to take a decision for grant of incentive increments in terms of 4th Pay Commission's recommendation - as the matter was pending for a decision on the quantum of incentive to be granted and how the same amount to be paid. The Government policy decision evidently pending. The said decision in the OA 1503/91 did not go any further than granting 6 months + 1 month to take a decision and whether the applicants correctly moved a contempt petition against the respondents or not. The case fell flat, as the contempt petition was dropped on 6-3-96. Therefore, no cause of action survived from the OA 1053/91 to be pursued. The applicants failed to revive any ground of action from the letter of 2-4-69 - which had become barred by limitation even from the date of stoppage of the benefit.

7. We have considered the fact that the Government vide their order in Annexure dated 28-6-93 which was issued almost soon after the decision in OA 1053/91 had introduced a fresh scheme for payment of lump sum grant to eligible candidate, in departure of the erstwhile monthly scheme of incentive increment, which was actually stopped long back. Following this the authorities have formally communicated their rejection of monthly incentive grant on 4-11-94. All these were time taking but done in pursuance of the IV CPC's recommendation. This delay itself does not give rise to any cause of action.

8. The applicants have rejected their fresh grant, in totality in as much as they have sought quashing of the ~~ad. order~~ dated 28-6-93 - outlining the scheme of lump sum grant to ineligible candidates. If this is withdrawn, it would not only hurt the present applicants, but others who may opt to accept it.

9. We are therefore of the considered view that the applicants have not made out their case and the OA has no merit. In the result, the OA is dismissed. No costs.

S. Biswas
(S.Biswas)
Member(A)

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)