

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No.126/2012

This, the 9th day of April, 2013

Hon'ble Mr. Navneet Kumar, Member(J)

1. Lt. Col. S. M. Bhagat (Retired), aged about 74 years, son of Late Harbans Lal Bhagat Resident of 2/279, Vishwas Khand, Gomti Nagar, Lucknow.
2. Lt. Col. S.U. Zafar(Retired), aged about 68 years, Son of Late M.S. Hashmi resident of B-89, AWHO Colony, kTyagi Vihary, Bangla Bazar, Lucknow.
3. Lt. Col. O.P. Vaid (Retired) aged about 74 years Son of Late Hukum Chand Vaid, resident of UPHAR, 91, Udyan-1, ELDECO, Lucknow.

Applicant

By Advocate Sri Shakti Ojha.

Versus

1. Union of India, through the Secretary to Government, Department of Personnel & Training Government of India, Central Civil Secretariat, New Delhi.
2. The Secretary to Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, Government of India, Central Civil Secretariat, New Delhi.
3. Director General NCC, MS(B), Ministry of Defence, West Block, R. K. Puram, New Delhi- 110066.
4. Principal Controller of Defence Accounts(Pension), Gp VI, Civil Sec, Draupadi Ghat, Allahabad-211014.

Respondents

By Advocate Sri Rajendra Singh.

Order

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application has been preferred under Section 19 of the Central Administrative Tribunal Act, 1985 with the following reliefs:

- (i) To set aside the impugned orders (i). Circular No. 144No. AT/Tech/VICPC/349-IIIO/o Pr. C.D. A(P) Allahabad dated 27.1.2010 (Annexure No. 1) (ii) Government of India, Ministry of Defence Letter No. 17(4)/2008(I)/D(pen/Policy) dated 11.11.2008 by summoning the same in original.

- (ii) To declare that Government of India, Ministry of Defence, Department of Ex Servicemen Welfare Letter No. 17(4) 2008/D(Pen Policy) dated 21st May, 2009 (Annexure No. 3) is Applicable to the Instant case of Applicants;
- (iii) To direct respondents to revise pension of Applicants under Minimum Guaranteed Pension of s. 25700/- pr month with all benefits appended thereto along with arrears and 18% interest accrued thereon;
- (iv) To allow the original application with cost to meet the ends of justice.

2. The brief facts of the case are that the applicants were granted Emergency Commission and as per their appointment letter, as well as the letter granting applicants permanent commission in NCC, there is a clause under which Applicants' pay and allowances were to be governed by A1-3/S/62 and A1-9/S/74 which is equally applicable to regular Army Officers. Apart from this, the learned counsel for the applicant has also pointed out that as per the Government of India, Ministry of Defence Letter No. 5431/DGNCC/PCTCS/MS(B)/1130/A/D(GS-VI) dated 23rd May, 1980 "the duties assigned to these officers will be the same as for Armed Forces Officers, posted in NCC Units/Formations. These Officers will exercise command and control as provided for under NCC Act and Rules, as amended from time to time. These officers will be junior to the Regular Service Officers of the same rank and will serve under them, when so posted but senior to all part time officers of the same rank irrespective of the length of service." A part from this, the pay and allowances of the applicants will be governed under provision of Special Army Instructions. The learned counsel for the applicant has categorically pointed out that the case of the applicant strongly recommended by the Lt. Col. 26th May 2010 and

the said recommendation is placed by the applicant at page 63 of the O.A. After the said recommendation, nothing was heard by the respondents. As such, the applicant preferred the present O.A.

3. The learned counsel appearing on behalf of the respondents file their reply and through reply, it was pointed out by the respondents that the Ministry of Defence is recommending and implementing authority with regards to service conditions of NCC and the matter is already recommended by the DG,NCC and the decision is still pending. In paragraph 19 of the reply, it is categorically pointed out by the respondents that the matter is already under consideration with Ministry of Defence. Hence, it is appropriate to wait for the decision of the Ministry of Defence on applicability of MGP to WTOs.

4. On the basis of the said averments made by the learned counsel for the respondents, the learned counsel for the applicant submitted at bar and made a statement he would be satisfied, if a direction is issued to the respondents to consider and decide the case of the applicants within a reasonable period of time. The learned counsel for the respondents also does not have any objection.

5. Considering the averments made by the learned counsel for the applicant and the respondents, it is expedient in the interest of justice that a direction is issued to the respondents to finalize the issue which is also referred to the Ministry of Defence within a reasonable period of time in accordance with law say within a

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maximum period of 4 months and the decision so taken be communicated to the applicant.

6. With the above observation, the Original Application is disposed off. No order as to costs.

U R. Agarwal
(Navneet Kumar)
Member (J)

Vidya