

(a)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No. 636/87

M.S. Shetty.

.. Applicant.

V/s

1. Union of India
Secretary
Ministry of Defence,
New Delhi.
2. Engineer-in-Chief
AHQ Kashmir House
New Delhi.
3. Commandant
College of Military
Engineering, Pune - 31.

.. Respondents.

Coram: Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman
Hon'ble Mr. M.Y. Priolkar, Member(A).

Advocates:

Dated:

Mr. G.S. Walia for the
applicant.

Mr. R.K. Shetty, for the
respondents.

Judgement

Dated: 18.3.1991

(Per Hon'ble Mr. Justice U.C. Srivastava
Vice Chairman.)

The applicant who is at present working as
Professor of Electrical Engineering at the College of
Military Engineering, Pune has approached this Tribunal
praying for the following reliefs :

- (a) Implementation of the AICTE pay scale for
Professor at CME with effect from 1.1.1973
in line with the practice in all Civilian
Engineering Institutions.
- (b) Payment of arrears of Rs. 23840/- (approx)
upto 1.4.1986.
- (c) Fixation of pay on 1.4.1986 @ Rs. 2375/- plus
allowances thus keeping continuity of the
increments instead of the present fixation of
Rs. 2000/- after the revision.

(10)

2. The applicant was selected through Union Public Service Commission as Professor of Electrical Engineering at the College of Military Engineering under the Ministry of Defence in Oct. 1968 in the scale of 1100-1600 (then prevailing UGC/AICTE pay scale). Prior to 1.1.1973 he was given pay scale of UGC which was 1100-50-1300-60-1600. The Third Pay Commission decided on the issue of pay scale of Professor at the College of Military Engineering, they overlooked the fact stated above and arbitrarily revised the pay of Professor from Rs. 1100-1600 to Rs. 1500-1800 in line with the general fitment for other Central Govt. categories of staff.

3. On 30th March 1974, UGC announced the pay scales of University/college Professors revising the scale from Rs. 1100-1600 to Rs. 1500-2500. These pay scales were thereafter adopted by the All India Council for Technical Education (AICTE) for all IIT and Engineering Institutions all over the country with effect from 1.1.1973. The revised pay scales were implemented in all Universities/IIT/Engineering Colleges administered by the Central Ministries, State Govts. and privately run Engineering Colleges but the same were not applied to the Engineering Institutions under the Ministry of Defence. Thus a disparity occurred between CME and other Civilian Engineering Institutions in the pay scales of Professors since 1.1.1973. The grievance of the applicant is the same. No action was taken by the respondents on the representation of the applicant as they were not Professors governed by UGC. The advocate for the respondents Mr. Shetty submitted that teachers cannot be called Professors of the Military Establishment.

4. The applicant made representations on 15th July, 1974, 26th August 1974, 3rd February 1975, 1st May 1975 and on 29th May 1975. In a special meeting held at New Delhi on 6th February 1976 under the Chairmanship of the Scientific Advisor to R.M. to discuss common points of all the Army Engineering Institutions, the issue of the pay scales of the Professorial staff was discussed. It was agreed vide Minutes circulated under letter No.79538/- MTIO(a) dated 06, April 1976 (para 20) that the pay scales of Professorial staff at the three Army Engineering Institutions should be the same as the UGC pay scales recommended for IIST and Universities in India. Subsequently when the recommendations of the Fourth Pay Commission was implemented in that the Applicant was extended the scale of pay of Rs. 4200-5700 w.e.f. 1.1.1986.

5. Mr. R.K. Shetty advocate for the respondents repeatedly submitted that the application is time barred. Therefore, the present demand of the applicant is liable to be rejected on the grounds of lack of jurisdiction, limitation. Learned counsel for the respondents submitted that there is no jurisdiction to this Tribunal to consider the claim because it was before the formation of the Central Administrative Tribunal itself.

6. Applicant was continuously making representations after representation notwithstanding that during this period 3rd and 4th Pay Commissions submitted their report. There is no question of laches or delays for consideration of pay scales, of the applicant. AICTE recommended that this scale be revised from 1973 to the scale of Rs. 1500-2500. The Govt. acceded to the plea that the

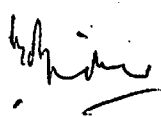
professor at CWE should have the parity in the pay scale with Professors of Civil Colleges and hence recommended AICTE pay scale but gave it from 10th April 1986, that is the date when Cabinet took a


decision. This gave the proximate cause of action of the applicant to approach Tribunal as the date according to us has not been correctly fixed. This happened after coming into existence of Tribunals. As such the case is fully cognizable by the Tribunal which can look and adjudicate in the matters of certain events forming a chain.

7. Coming to the next point regarding the grant of scale with effect from 1.7.73 instead of 10th April 1986. It is to be noticed that in the written statement of the respondent it has not been stated as to why the Cabinet decided to give that very date when it met for giving the same scale to the applicant. When the Government in principle accepted the plea raised by the applicant in his representation. No reasonable basis of this date discriminating the applicant or his category of Professors of Civil side in Military establishment. The decision regarding date thus apparently appears to be arbitrary as such the same require reconsideration.

8. In this circumstances, the application deserves to succeed, in part in as much as the Respondents are to consider the applicant's prayer for grant of the said scale in arrears with effect from 1.1.1973 that is the

date when the said scale of pay was accepted for other Professors of the Military establishment in accordance with law in the light of observation made in the judgement taking into consideration all the relevant facts in this behalf. Let decision in this behalf be taken within the period of 3 months from the date of communication of this order. There will be no order as to cost.


(M.Y. PRIOLKAR.)
MEMBER(A)


(U.C. SRIVASTAVA.)
Vice Chairman.