

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 700/1996

DATE OF DECISION:20/06/2001

Shri N.Sivaraman

Applicant

Shri S.P.Saxena

-----Advocate for
Applicant.

Versus

Union of India & 3 Ors.

-----Respondents.

Shri R.K.Shetty

-----Advocate for
Respondents.

Coram:

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastry, Member(A).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to
other Benches of the Tribunal?
3. Library.

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(SHANTA SHASTRY)
MEMBER(A)

abb

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:700/1996
DATED THE 20TH DAY OF JUNE,2001

CORAM:HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

Shri N.Sivaram,
Stenographer Gr.I,
Armoured Corps Centre & School,
AHMEDNAGAR-414 002. Applicant

By Advocate Shri S.P.Saxena

V/s.

- 1: Union of India through
the Secretary,
Ministry of Defence,
DHQ P.O., New Delhi-110 011.
2. Director General (Org & Pers),
Adjutant General's Branch,
Army Headquarters,
DHQ P.O., New Delhi - 110 011.
3. The Director General of Mech.Forces,
General Staff Branch,
Army Headquarters,
DHQ P.O., New Delhi - 110 011.
4. The Commandant,
Armoured Corps Centre & School(A),
Ahmednagar - 414 002. Respondents

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant was initially recruited as Storeman Technical with effect from 9/8/1967 and went up the ladder and reached the Stenographer Gr.I from 1/9/1993 in the scale of 1640-60-2600-EB-75-2900). There was a higher post of Senior PA and the applicant being the senior most Grade-I stenographer was aspiring for the same. In 1989, after the recommendations of the IVth Pay Commission, the Department of Personnel and Training issued OM dated 5/2/89 laying down the entitlement of Officers

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for Stenographic Assistance in subordinate offices. According to this OM, Officers in the scale of Rs.5100-5700 and above it and below 5900-6700 were entitled for Stenographer Gr.I in the scale of Rs.1640-2900 attached to them. Similarly, officers in the payscale of Rs.5900-6700 were entitled to attachment of Stenographer in the rank of Senior PA in the scale of 2000-3200. Applicant was attached to a Commandant who was drawing pay in the scale above that of Rs.5900-6700 prior to the Vth Pay Commission recommendations. The applicant therefore sought the scale of the Senior PA's post. Prior to the applicant there was one Shri Vaidya who was holding the aforesaid post. In his case also the respondents had not granted the scale of Senior PA. He moved the matter through OA 729/92 in the Tribunal. The same was decided on 8/8/95 and he was given the benefit of that scale from 1/1/86. This judgement was challenged by way of SLP in the Supreme Court. The same was dismissed. The judgement having become final, the respondents implemented the judgement and granted the scale of Senior PA to Shri Vaidya. Shri Vaidya retired in 1993 and the applicant succeeded him in the aforesaid post. Again the applicant was not granted the Senior PA's scale, therefore the applicant has approached this Tribunal by this present OA. The applicant in this OA has sought several, reliefs i.e. to upgrade the applicant to the post of Stenographer Grade-I w.e.f. 11/6/89 and in the Senior PA's grade w.e.f. 11/6/91 with all consequential benefits and arrears.

2. It is the contention of the applicant that he was not granted the scale only because he is a civilian attached to a Military Person and the respondent held that the OM dated 5/2/89

was not applicable in the case of Military persons. However, since the relief was granted in the case of Shri Vaidya, this point no longer survives. The learned counsel for the respondents submits that the applicant has now been granted promotion as Senior PA w.e.f. 1/11/96. However, the applicant wants this scale from when Shri Vaidya retired in 1993.

3. In the meantime, in another OA decided by this Tribunal, in a similar matter SLP has been filed in the Supreme Court and the Supreme Court has stayed the contempt proceedings in the aforesaid OA. Therefore on account of this stay, the hearing had been postponed earlier. However, since the applicant is the successor to Shri Vaidya whose OA was decided by this Tribunal and confirmed by Supreme Court and implemented by the respondents, we are proceeding to decide this case on its own merits as we are also bound by a judgement of the very Tribunal.

4. The only question that now remains is giving retrospective effect to the promotion already granted on 1/11/96 to the applicant. The learned counsel for the applicant has also sought the relief of ante dated promotion to Grade-I w.e.f. 1989.

5. The learned counsel for the respondents has raised the plea of limitation, delay and laches. It is true that the applicant has come to this Tribunal after 7 years after the cause of action arose as far as his promotion to Grade-I is concerned. He has not given any satisfactory explanation for the delay in approaching this Tribunal. We also hold that the applicant's prayer is hit by limitation and therefore are not inclined to grant the relief as far as promotion to Grade-I is concerned with retrospective effect from 1989. In regard to the promotion to

the Senior PA's scale, the learned counsel for the respondents submit that there was no post of Senior PA as in 1993 and if any relief is granted from 1993, a post will have to be created by getting the sanction from Ministry of Defence by amending the Peace Establishment., it is only then that the higher payscale can be released to the applicant after holding a review DPC.

6. In our view, the applicant's predecessor was already granted the Senior PA scale w.e.f. 1/1/86, the applicant has merely stepped into his shoes therefore it is difficult for us to accept that a new post will have to be created. We cannot therefore accept that a post cannot be created now. However, the learned counsel has further raised the plea that the applicant has approached this Tribunal beyond the period of limitation as his predecessor retired in 1993 and therefore the application being barred by limitation, the applicant cannot be granted the higher scale from 1993. The respondents have therefore rightly granted him promotion from 1/11/96.

7. We have heard the learned counsel for both the sides and we are of the view that the applicant is entitled to the Senior PA Scale from the date the predecessor of the applicant retired. We therefore hold that the applicant is entitled to be considered for being granted the Senior PA scale from the date his predecessor retired and he took over by holding a Review DPC as per procedure and also by getting necessary sanction for amending the Peace Establishment. However, since the applicant has approached this Tribunal beyond the period of limitation, we order only notional promotion to be granted w.e.f. the date his predecessor retired with all consequential benefits

The applicant shall be entitled to the arrears in the difference of pay from one year prior to the filing of the OA i.e. from 4/7/95. The respondents shall complete the exercise within a period of four months from the date of receipt of copy of this order.

8. The OA is disposed of accordingly. We do not order any costs.

Shanta Shastray
(SHANTA SHAstry)
MEMBER(A)

Ashok Agarwal
(ASHOK AGARWAL)
CHAIRMAN

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