

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this the 6th day of December, 2002

O.A.544 of 1999

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.S.L.Jain - Member (J)

Sital Singh Hira,
Photoprinter I.P.Section,
I.N.S. Shivaji, Lonavala,
Pune.
(By Advocate Shri K.R.Yelwe) - Applicant

Versus

1. Union of India
through the Secretary to the
Government of India,
Ministry of Defence,
New Delhi.
2. The Flag Officer,
Commanding-in-Chief,
Western Naval Command,
H.Q., Sahid Bhagat Singh Road,
Mumbai - 400 001.
3. The Commanding Officer (C.P.).
I.N.S. 'SHIVAJI',
Lonavala, Pune - 410 402.
(By Advocate Shri V.S.Masurkar) - Respondeents

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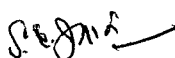
By Hon'ble Mr.S.L.Jain, Member (J) -

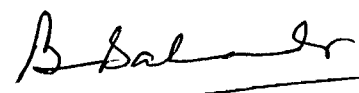
This is an Application under Section 19 of the Administrative Tribunals Act for a declaration that the Applicant is covered by the Notification dated 27.9.1986 issued by the Ministry of Defence with a direction to the Respondents to grant scale of pay of Rs.1350 - 2200/- w.e.f. 1.1.1986 in pursuance of the Notification referred above, in lieu of Rs.1200-2040/with all consequential benefits such as arrears of pay and allowances admissible. The Applicant has also claimed scale of pay of Rs.4500-7000 recommended by Fifth Pay Commission corresponding to the scale of pay of Rs.1350-2200 w.e.f. 1.1.1996.

P.L. Jain

.....2/-

2. The Applicant has challenged the Order dated 2.12.1996 (Annexure-A-1) and thereafter inaction on the part of the Respondents.
3. Keeping in view the fact that the Applicant is seeking the relief regarding pay fixation, the case of the Applicant is covered by the decision of the Hon'ble Supreme Court in the case of M.R.Gupta Vs.Union of India & others, AIR 1996 SC 669. It is true that the Respondents have arrived to a decision vide order dated 2.12.1996 (Annexure-A-1) but the right of the Applicant to claim the pay fixation is a recurring cause of action as such the claim regarding pay fixation is not barred by limitation, but the arrears can be restricted keeping in view the fact of filing the OA.
4. On perusal of Annexures-A-II, A-III and A-VII, we find that the Applicant has made his grievance to the Commanding Officer INS Shivaji, Lonavla and again to the Flag Officer Commanding-in-Chief, Western Naval Command, Mumbai. He has not agitated his grievance to the highest authority which is to take a decision thereon.
5. In the circumstances, we agree to the submissions of the parties that the Applicant is free to agitate the matter with a detailed representation to the competent authority within a period of one month, the Respondents to take a decision thereon within a period of three months thereafter with communication to the Applicant. No order as to costs.


(S.L.Jain)
Member (J)


(B.N.Bahadur)
Member (A)