

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 906/99

Date of Decision : 10th June, 2003

N.S.Kulkarni

Applicant

Shri A.I.Bhatkar

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.S.Masurkar

Advocate for the
Respondents

CORAM :

The Hon'ble Shri V.K.Majotra, Member (A)

The Hon'ble Shri Shanker Raju, Member (J)

- (i) To be referred to the reporter or not ? *Ap*
(ii) Whether it needs to be circulated to other Benches of the Tribunal ? *No-*
(iii) Library ✓

V.K. Majotra
(V.K. MAJOTRA)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.906/99

Dated this the 10th day of June 2003.

CORAM : Hon'ble Shri V.K.Majotra, Member (A)

Hon'ble Shri Shanker Raju, Member (J)

Narayan Shriniwas Kulkarni,
Chief Draughtsman (Retd.),
R/at 15'A' Mehendale Bldg.
Co-Operative Hsg. Society Ltd.,
V.P.Road, Girgaum, Mumbai.

...Applicant

By Advocate Shri A.I.Bhatkar

vs.

1. Union of India
through Secretary,
Ministry of Defence,
DHQ PO, New Delhi.
2. The Flag Officer
Commanding-in-Chief,
Headquarters Western Naval
Command, Shahid Bhagat Singh
Road, Mumbai.
3. The Officer-in-Charge,
Naval Chart Depot, INS Angre,
Castle Park, S.B.Singh Road,
Mumbai.
4. The Controller of Defence
Accounts (N), Wodehouse Road,
Cooperage, Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

..2/-

O R D E R

{Per : Shri V.K.Majotra, Member (A)}

The applicant has challenged action of the respondents contained in Annexure-1 dated 20.10.1998 in not fixing his pay in terms of respondents orders dated 15.9.1995.

2. The applicant who was working as Chief Draughtsman with the respondents retired on 31.8.1994. He has filed this OA. on 15.10.1999 seeking direction to the respondents to fix his pay in accordance with the instructions contained in respondents' letter dated 15.9.1995.

3. Learned counsel of the applicant stated that his pay scale of Rs.250-380 was revised by pay scale of Rs.425-700 after completion of 5 years as mentioned under para 3 (1)(b) of Ministry of Defence order dated 15.9.1995. He further stated that his pay was further revised from 13.5.1971 after completion of 4 years as stipulated under para 3(1)(c) ibid and the pay was fixed in the pay scale of Rs.335-485 which was revised by pay scale of Rs.550-750 under the Third Pay Commission. According to the applicant as on 1.1.1973 his pay was fixed at Rs.570/- in the pay scale of Rs.550-750. As on 1.1.1986 his pay was fixed under revised pay scale at Rs.2850/- on promotion as Chief Draughtsman. He has pointed out that various employees similarly situated who were appointed as Draughtsman prior to 13.5.1982 and were junior to the applicant were accorded all benefits of revision of pay scale in terms of letter dated 15.9.1995, however, the same benefits have been denied to the applicant.

..3/-



4. On the other hand, learned counsel of the respondents has stated that while the cause of action for the applicant has arisen in 1996, he has filed this OA. after an inordinate delay and beyond the period of limitation, i.e. 15.10.1999. He has relied on 2002 (5) SLR 307 - E.Parmasivan & Ors. vs. Union of India & Ors. in which it was held that an application filed by MES officers who retired long ago for fixing of pay in terms of O.M. of later date is beyond limitation. In our considered view, the ratio in this case is not applicable to the facts of the present case as the respondents have themselves considered the representation of the applicant and rejected the same on 20.10.1998. Thus, the contention of the respondents' counsel is not sustainable and the objection as regards the filing of the OA. beyond the limitation period is rejected.

5. Learned counsel of the respondents stated that as on 13.5.1982 he was promoted as Draughtsman Gr.II in the scale of Rs.425-700 w.e.f. 13.3.1980 and as such has not completed the prescribed minimum service of 4 years as laid down in para 3 (1) (c) of Government letter dated 15.9.1995. He completed the prescribed period of 4 years as on 13.3.1984 and would be entitled to revised pay scale of Rs.550-900 with effect from that date. His pay was accordingly fixed as per Annexure-R-2.

6. Be that as it may, respondents have not properly responded to applicant's contention raised in para 4.8 which relates to the benefit in terms of Government letter dated 15.9.1995 accorded to the similarly situated persons who were

..4/-



junior to the applicant and had been appointed as Draughtsman prior to 13.5.1982 like the applicant. The names of these applicants as stated by the applicant are as follows :-

Name	Date of Appointment
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(a) Shri Sharad V.Borkar	20.06.1968
(b) Smt.S.V.Desai	20.09.1977
(c) Shri Vasant M.Bobde	20.12.1977
(d) Smt.Swati Sharad Gore	06.10.1978
(e) Shri Ashok M.Pawar	01.04.1980
(f) Shri S.S.Mayekkar	1980

7. In our considered view, the respondents should have addressed themselves to the grievance of the applicant regarding grant of the same benefit in terms of Government letter dated 15.9.1995 as made available to the similarly situated persons.

8. Keeping in view the totality of facts and circumstances, we allow this OA. with the direction to the respondents to consider the claim of the applicant in terms of Ministry of Defence order dated 15.9.1995 with a view to according the same benefit as accorded to the similarly situated junior persons. The respondents should verify the claim of the applicant vis-a-vis the persons whose names have been given above and decide the claim of the applicant by passing a detailed, reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)

MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)

MEMBER (A)