

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 48 of 2001.

Dated this Monday, the 25th day of February, 2002.

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.
Hon'ble Shri M. P. Singh, Member (A).

Dr. Ramakrishna Wasudev Limje,
Residing at -
Building No. B/8, Flat No. 9,
Kendriya Vihar, Sector-38,
Nerul, Navi Mumbai.

... Applicant.

(By Advocate Shri S. V. Marne)

VERSUS

1. Union of India through
The Chief of Naval Staff,
(Director of Administration),
'A' Block, R. K. Puram,
Naval Headquarters,
New Delhi - 110 066.
2. The Director General of
Armaments Supply,
R. K. Puram, West Block No. 5,
New Delhi - 110 066.
3. The Controller General of
Defence Accounts (H.Q.),
R. K. Puram,
New Delhi - 110 066.

.... Respondents.

(By Advocate Shri V. S. Masurkar)

O R D E R (ORAL)

PER : Shri M. P. Singh, Member (A).

By this O.A. the applicant is seeking directions to pay him the arrears of pay and pensionary benefits as a result of ante-dating his promotion to the selection grade of Naval Armament Supply Officer (N.A.S.O. in short).



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2. The brief facts of the case are that the Applicant was appointed as a Deputy Armaments Supply Officer Grade-II on 08.02.1973. He was promoted as Deputy Armaments Supply Officer, Grade-I in June, 1976. Thereafter, he was promoted as N.A.S.O. Subsequently, he was given the selection grade of N.A.S.O. in April, 1993. Since the date of his promotion in this grade was erroneous, he submitted a representation to the respondents. The respondents vide their order dated 03.03.1999 have antedated his promotion to the selection grade from 15.05.1992. However, the respondents have not refixed his pay with reference to ante-dating of his promotion to the selection grade of N.A.S.O. as required under the rules. In the meantime, the applicant took voluntary retirement from service on 28.02.1998. He submitted a representation on 03.10.1999. The Respondents have not refixed his pay and granted him arrears as requested by him in his representation. Aggrieved by this, he filed an O.A. claiming the aforesaid relief.

3. The Respondents have contested the case and have stated that the applicant actually stands to lose monetarily followed by reduction in retirement benefit i.e. gratuity, pension and commuted value of his pension, inspite of his getting marginal arrears for the period from 15th May, 1992 to 31st March, 1993. It is further stated by the Respondents that as explained by the Applicant, grant of higher increment in the higher scale will arise only when the Applicant has given option to fix his pay after grant of increment in the lower scale in accordance with F.R. 22 (I)(a)(i). The applicant had already retired from service and had not given his option.

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4. Heard the Learned Counsel for rival contesting parties and perused the pleadings and records furnished by the respondents.

5. On perusal of the record, we find that the promotion of the applicant to the selection grade of N.A.S.O. was ante-dated by the Respondents on 03.03.1999. By that time, the applicant had already retired from service. As per FR 22(I)(a)(1) read with Government of India order (15) below F.R. 22, a Government servant is required to exercise an option for fixation of pay either from the date of promotion or from the date of next increment. In this case, we find that the applicant had already retired and, therefore, could not have exercised the option as provided under aforesaid rules. Government of India Order (15) below F.R. 22 reads as follows :


"(15) Availability of option for choosing date for fixation of pay on promotion should be indicated in the promotion order - In the order promoting the Government servant, it may be mentioned that he has to exercise the option within one month. On his promotion, the pay should first be fixed under F.R. 22-C and in case he exercises an option in terms of para 2(b) of OM, dated the 26th September, 1981 [now F.R. 22(I)(a)(1)] within the prescribed period of one month, his pay should be refixed originally under F.R. 22(a)(i) with effect from the date of his promotion and then under F.R. 22-C only with effect from the date of accrual of next increment in the feeder post."

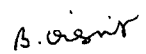
From the perusal of the order dated 03.03.1999 promoting the applicant from retrospective effect, we find that the Respondents have not obtained his option for the fixation of pay from the date of his actual promotion i.e. 15.05.1992. In the circumstances, we feel that the ends of justice will be duly met

if we direct the Respondents to obtain the option of the applicant under FR 22(I)(a)(1) read with Government of India order (15) below F.R. for fixation of his pay in the selection grade of N.A.S.O. from the date of ante-dating his promotion i.e. 15.05.1992.

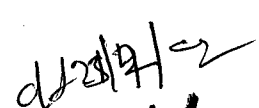
6. We, therefore, direct the respondents to obtain the option of the applicant for re-fixation of his pay in the Selection Grade of N.A.S.O. as provided under F.R. 22(I)(a)(1) read with Government of India order No. (15) below F.R. 22 and re-fix his pay accordingly. The respondents are also directed to pay all consequential benefits to the applicant including arrears of pay and pensionary benefits in accordance with rules, instructions and law. The above exercise shall be completed within three months from the date of receipt of a copy of this order.

7. The O.A. stands disposed of as per directions given in para (6) above. There will be no order as to costs.


(M.P. SINGH)
MEMBER (A).


(BIRENDRA DIKSHIT)
VICE-CHAIRMAN.

OS*


Order/Judgement despatched
to Applicant/Respondent(s)
