

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:801/2001
DATED THE 4TH DAY OF JUNE, 2002.

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Mrs. Radha G Nair,
W/o. Late Shri V.G. Nair,
(Office Supdt. Retd)
Residing at C/o. Mrs. Mini Murlidharan,
Siddheshwar Nagar,
Building No. B-1, Flat No. 03,
First Floor, Vishrantwadi,
Pune-411 015.

... Applicant

By Advocate Shri K.K. Waghmare

v/s.

1. The Union of India,
Through the Secretary,
Ministry of Defence,
DHQ, New Delhi-110 011.
2. The Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
DHQ New Delhi-110 011.
3. The Chief Engineer,
Southern Command,
Pune 411 001.
4. The Chief Engineer,
Pune Zone,
Pune 411 001.
5. The Commander Works Engineer,
Kirkee, Pune 411 031.

... Respondents

By Advocate Shri R.K. Shetty

(ORAL)(ORDER)

Per Smt. Shanta Shastri, Member(A)

The relief sought in this OA by the applicant is to reclassify her late husband Shri V.G. Nair as Upper Division Clerk from 1/1/1947 and to retify the pay in the Scale of pay of Upper Division Clerk from 1/1/1947 with all consequential benefits such as annual increments as and when due. The applicant has also

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prayed for a direction to the respondents to calculate the difference of arrears of Pay arising out of prayer clause 8(b) due to retixation and pay 60% of the amount to the applicant in terms of the order of the Supreme Court and review the case of promotion from U.D.C. to Office Superintendent.

2. The applicant's late husband retired from the Office of respondent no.5 on superannuation on 31/8/1986 as Office Superintendent. He expired on 18/2/1989. He was initially appointed as LDC on 9/3/44 and was subsequently promoted to the post of UDC from 11/2/63 and was further promoted to the post of Superintendent. In September 1944, the two clerical grades were replaced with three grades, viz. 'A', 'B' and 'C' grades by respondents. This classification was done pursuant to the introduction of the unified scales of pay introduced by the Government of India vide Finance Ministry's OM dated 19/8/1944. The applicant's husband was classified as 'B' grade clerk. After the report of the Vardacharya Pay Commission Report, the clerical grades of 'A', 'B' and 'C' were abolished and two new grades namely 'Clerk Upper Division' (in the pay scale of Rs.80-220) and 'Clerks Lower Division' (in the pay scale of Rs.55-130) were introduced from 1/1/1947. All 'A' and 'B' grade clerks were equated with clerk Upper Division and those in C grade as Clerk Lower Division. The Ministry of Defence also clarified that all the erstwhile 'B' Grade clerks of MES shall be equated with UDC w.e.f. 1/1/1947. The applicant's husband being an erstwhile 'B' grade clerk was entitled to be placed as Upper Division Clerk w.e.f. 1/1/47 in the attendant scale of pay. However, he was wrongfully classified as Lower Division Clerk in the scale of Rs.55-130.

3. Similarly placed persons had agitated the matter through Writ Petition NO.5853/1982 before the Madras High Court. The Writ Petition was allowed. Appeal against the same filed in the Supreme Court was heard and the Supreme Court while confirming the High Court's judgement directed to pay 60% amount out of the petitioner's dues as arrears. Similarly placed clerical employees filed UA 501/93 before the Calcutta Bench of the Tribunal and the same relief was granted. The President of India thereafter approved the payment of the various reliefs to the erstwhile 'B' grade clerks of the M.E.S. after their reclassification as Upper Division Clerk with effect from 1/1/1947 and with all consequential benefits. Another UA was also filed in Mumbai Bench and was allowed. Several such UAs have thereafter been allowed with arrears by this Tribunal. The case of the applicant's husband is squarely covered by the judgements of the Apex Court and those of this Tribunal.

4. Accordingly we hold that the applicant's late husband is entitled to be classified as UDC with the attendant pay scale w.e.f. 1/1/1947. ~~Arrears continued to the period of one year prior to filing of the present UA.~~ The UA has been filed on 29/10/2001 seeking relief from 1/1/1947. Thus, it is badly delayed and is beyond the period of limitation. However, in similar cases the delay was condoned and arrears were ordered to be paid from one year prior to the filing of the application. Following the same in the present UA also the arrears of difference in pay shall be restricted to from one year prior to filing of the UA. Therefore the arrears shall be payable from 29/10/2000. The respondents shall accordingly reclassify the

applicant's late husband as Clerk Upper Division w.e.f. 1/1/1947 and shall re-fix his pay in the scale of UDC from 1/1/47 with all consequential benefits like annual increments and arrears due to difference in pay from one year prior to filing of the UA. Also other consequential benefits like reviewing or promotion from UDC to higher levels shall be granted. The applicant's pensionary benefits also shall be re-calculated and arrears granted accordingly from the year prior to date of filing of UA. The entire exercise shall be carried out by the respondents within a period of six months from the date of receipt of copy of this order. UA is allowed. No costs.

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(SMT. SHANTIA SHASTRY)
MEMBER(A)

B. Dixit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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