

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 29 APR 1988

APPLICATION NO 854 / 87(F)

W.P. NO. _____

Applicant

Shri B.R. Bhatia

V/s

Respondent

The Secretary, M/o Defence, New Delhi & 2 Ors

To

1. Shri B.R. Bhatia
21/34, Wheeler Road Extension
Bangalore - 560 084
2. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011
3. The Scientific Adviser to Raksha Mantri
& Director General Research & Development
Ministry of Defence
New Delhi - 110 011
4. The Director
Gas Turbine Research Establishment(GTRE)
Ministry of Defence
Suranjan Das Road
Bangalore - 560 093
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/ANSWER/ANSWER TO ORDER
passed by this Tribunal in the above said application on 19-4-88.

Encl : As above

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

pay scale as CAO should have been fixed in the scale of Rs.1800-2250 either from the time he was appointed to that post or from any later date.

9. In the result, we dismiss this application but direct the parties to bear their own costs.

Sd/-
VICE-CHAIRMAN *10/4/88*

Sd/-
MEMBER (A)

TRUE COPY



R. Venkatesh
DEPUTY REGISTRAR (JDL) *2/1/88*
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

the file make it clear that the higher scale of pay was indeed prescribed to attract good officers from outside the DRDO itself. This was made clear in the original Rules when they were notified in 1981. It also appears that when the posts were initially created the authorities felt that a sufficient number of persons would not be available within the organisation eligible for promotion and that was why a provision was made for drawing persons on deputation from other departments with a slightly more attractive scale of pay. This object becomes very clear when we come to the Amendment Rules made by the notification issued on 13.5.1983 (Annexure-p5, to the application). The relevant notes on the office files make it clear that persons were available within DRDO itself for promotion to the post of CAO and that, therefore, the provision of a higher scale of pay to attract deputationists was no longer necessary. In view of this, under Col.No.4 of the schedule to the original Rules, the higher scale of pay mentioned therein was deleted by the Amendment Rules. After the Amendment Rules were notified in 1983 there was only one scale of pay applicable to CAOs and that was at Rs.1500-2000. We, therefore, find after a careful perusal of the office files, that there was a rationale behind prescribing two scales of pay for the post of CAO at the beginning and maintaining the two scales till 1983. The rationale was that talent from outside could be attracted by a higher scale of pay while the lower scale of pay would be sufficient for persons promoted from within the organisation. We see nothing wrong in this and we are unable to see any discrimination involved in this. This being so, we have to reject the applicant's contention that prior to his voluntary retirement his



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the posts of CAOs were created by order dated 9.4.1979 issued by the DGR & D, the intention was that only the lower scale of pay of Rs.1500-2000 would be applicable to officers belonging to any of the establishments of Defence Research Development Organisation (DRDO) who were promoted to CAOs while the higher scale of pay would be available to persons who would come on transfer or deputation to that post from other Government departments. This intention was made clear when the Rules of Recruitment for the post were notified in 1981. There was nothing wrong in prescribing two scales of pay for persons to be drawn from different sources and it was in fact necessary to prescribe the higher scale of pay to attract good persons on deputation or transfer from outside. This is a reasonable classification which had a nexus with the object sought to be achieved. The applicant having been promoted from within the organisation itself was not entitled to the higher scale of pay.

8. We have heard both sides. We have also perused the office files of the Head Quarters office of the Defence Research and Development Organisation, New Delhi in which the original order sanctioning the posts of CAOS and the Recruitment Rules published thereafter were processed. We notice from these files that the proposal, as it emanated from the Financial Adviser (Defence Services) was for only one scale for the post of CAO at Bangalore, Madras and Hyderabad and that scale was to be at Rs.1500-2250. Subsequently, when the proposal was approved two separate scales viz., Rs.1500-2000 and Rs.1800-2250 were introduced and notified. Though at that time there was no specific reference to officers being drawn on deputation from outside, the subsequent notings in



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pay applicable to him and that it is a live issue even now.

He pleaded that his claim be allowed at least after 1.11.1982, that is, he be given the higher scale of pay after 1.11.1982.

6. We have considered the preliminary objection of Sri Vasudeva Rao and we find merit in the same. The applicant's claim for the higher scale of pay of Rs.1800-2250 was conclusively rejected by the Director General Research and Development in his letter dated 30.9.1982. That letter no doubt covered the cases of all persons then working as CAOs in the different establishments of the Defence, Research and Development Organisation. But, the applicant being one of them, it was a rejection of his claim as well. Repeated representations made by the applicant thereafter cannot be said to keep the cause of action alive. In V.K.MEHRA v. SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING (ATR 1986 CAT 203) the Principal Bench of this Tribunal clearly held that any cause of action arising before 1.11.1982 is beyond the jurisdiction of this Tribunal, which, therefore, cannot deal with such a claim and give any relief thereupon. This has been followed in several other decisions by different Benches of this Tribunal. IN KSHAMA KAPUR v. UNION OF INDIA 1987(4) ATC 329 the Bangalore Bench of which both of us were parties, held that repeated representations after a conclusive rejection of a claim cannot keep the cause of action alive so as to bring it within the competence of this Tribunal. On this ground itself, this application deserves to be dismissed. However, since we have also heard the applicant and Sri Vasudeva Rao in detail on the merits of the case, we proceed to deal with the same.

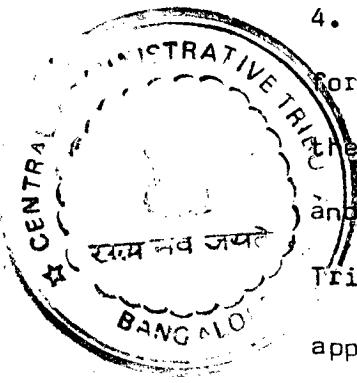
7. Sri Vasudeva Rao submits that ^{when} though two scales of pay viz., Rs.1500-2000 and Rs.1800-2250 were prescribed when

the post of CAO prescribed in the original Rules for departmental promotee officers and for officers on transfer on deputation were done away with by the amendment rules and only one scale was made applicable to that post.

3. The applicant who argued his case himself made the following submissions :

When he was initially appointed as CAO on ad hoc basis in 1979 there were no Rules of Recruitment to the post. The sanction of the President to the creation of the posts of CAOs laid down two scales of pay namely Rs.1500-2000 and Rs.1800-2250. There was no indication at that time that the latter pay scale would be available only to officers who come on transfer or on deputation and not to officers of the Research and Development organisation itself (of which GTRE is one), who are promoted to that post. Secondly, the applicant had all the necessary qualifications to fill up the post of CAO and was senior enough to be placed in the scale of Rs.1800-2250. The Recruitment Rules which were promulgated in 1981 can have no application to him because they came into effect after he was promoted to the post in 1979. He had made several representations to the authorities and the Director, GTRE had also supported his case. But, the respondents had eventually illegally rejected his request.

4. Sri M.Vasudeva Rao, learned counsel appearing for the respondents raised a preliminary objection namely that the cause of action in this case arose well before 1.11.1982 and, therefore in accordance with several decisions of this Tribunal, this Tribunal is not competent to adjudicate on the application of the applicant.



5. The applicant resisted this contention and said that he had been continuously representing about the scale of

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in 1979 when the applicant was first appointed on an ad hoc basis to the post of CAO there were no Rules of Recruitment for the post promulgated under Article 309 of the Constitution. What existed at that time was only the sanction of the President for 6 posts of CAOS with two scales namely Rs.1500-2000 and Rs.1800-2250. Recruitment Rules for this post (hereinafter referred to as the original rules) were however notified under Article 309 of the Constitution on 18.3.1981. The Schedule to these Rules again specified two scales of pay in Col.4 against the post of CAO. We may reproduce the entries in this regard which read as follows :

Scale of pay

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(i) For departmental promotee Officers :
Rs.1500-50-1800-100-
2000.

(ii) For officers on transfer on deputation : Rs.1500-50-1800-
100-2000 or Rs.1800-100-
2000-125/2-2250 accord-
ing to need on each
occasion.

These rules were subsequently amended by the Defence Research and Development Organisation, Directorate General of Inspection and Directorate of Technical Development and Production (Air) Organisations, Ministry of Defence (Chief Administrative Officer, Senior Stores Officer Grade-I and Senior Stores Officer Grade-II) Recruitment (Second Amendment) Rules, 1982 notified in the Gazette on 13.5.1983 as SRO 150/83 (Amendment Rules for short). Among other things, the Amendment Rules substituted one pay scale in Column No.4 against the post of CAO for the two pay scales prescribed earlier and extracted above and that scale was Rs.1500-60-1800-100-2000. In other words, two separate scales for

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 19th DAY OF APRIL, 1988

Present : Hon'ble Justice Sri K.S.Puttaswamy

Vice-Chairman

Hon'ble Sri P.Srinivasan

Member (A)

APPLICATION No.854/87(F)

B.R.Bhatia
Chief Administrative Officer,
GAS TURBINE RESEARCH ESTT.,
M/o Defence, Suranjan
Das Road, Bangalore - 93. ...

Applicant

vs.

1. The Secretary,
M/o Defence,
New Delhi.
2. The Scientific Adviser to Raksha
Mantri & Director General Research
& Development, R&D Orgn., M/o
Defence, New Delhi - 11.
3. The Director,
GTRE, Bangalore. ...

Respondents

(Sri M.Vasudeva Rao ... Advocate)

This application has come up before the court
today and Hon'ble Sri P.Srinivasan, Member (A) made the following :

ORDER

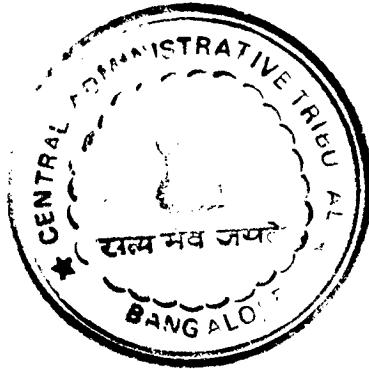
The applicant who took voluntary retirement from
the post of Chief Administrative Officer ('CAO') of the Gas
Turbine Research Establishment (GTRE) with effect from 30.9.1987
prays in this application that his pay while working as CAO should
have been fixed in the scale of Rs.1800-2250 and not in the scale of
Rs.1500-2000 as was done by the respondents.

2. The applicant, an Ex-Army Officer, who held the rank
of Captain in the Army on an Emergency Commission, joined civilian

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service at the Chief Inspectorate of Electronics, Bangalore as Administrative Officer with effect from 1.1.1970 after his release from the Army. He was selected as Senior Administrative Officer(Grade-I) in the scale of Rs.700-1250 from 25.5.1971. This scale was revised to Rs.1100-1600 after the Third Pay Commission's report with effect from 1.1.1973. His war service from 12.6.1965 was taken into account for the purpose of seniority in the post of Senior Administrative Officer Grade-I. On the basis of this seniority he was promoted as CAO in GTRE with effect from 31.10.1979 on an ad hoc basis and with effect from 5.10.1981 on a regular basis. When he was promoted as CAO, his pay was fixed in the grade of Rs.1500-2000. In 1979, 6 posts of CAOs were created and the sanction of the President for the same was conveyed by letter dated 9.4.1979(Annexure - P2 to the application) one of which was to be in GTRE, Bangalore. The letter announcing the creation of post, gave the pay scale of the post as Rs.1500-2000/1800-2250. In other words, two alternative scales of pay were prescribed for the post of CAO. The applicant's contention is that being the seniormost person among all the CAOs, he should have been given the higher scale of Rs.1800-2250. But, inspite of several representations, this had not been allowed to him. By letter dated 30.9.1982 the Director General Research and Development, Ministry of Defence (DGR &D) declined the request of officers promoted to the grade of CAO in October, 1981 (of whom the applicant was one) to be placed in the scale of Rs.1800-2250. The letter clarified that the recruitment rules for the post of CAO had prescribed the scale of Rs.1800-2250 for officers to be taken to the Research and Development Organisation on deputation while the scale of Rs.1500-2250 was applicable to officers belonging to the Organisation itself and promoted to that post. The applicant fell in the latter category. It may, in this connection, be mentioned that



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