

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 822 of 1998.

Dated this Thursday, the 1st day of August, 2002...

Amar Singh..... Applicant.

Smt. Neelima Gohad..... Advocate for the
Applicant.

VERSUS

Union of India & Others..... Respondents.

Shri R. R. Shetty for..... Advocate for
Shri R. K. Shetty..... Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).
Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?
(iii) Library ?

} No

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 822 of 1998

Dated this Thursday, the 1st day of August, 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).
Hon'ble Shri S. L. Jain, Member (J).

Amar Singh,
Demonstrator,
National Defence Academy,
Khadakwasla, Pune - 411 023.
(Residing at : N.C.O. Qr. No. 55,
N.D.A. Complex, Khadakwasla,
Pune - 411 023).

... Applicant.

(By Advocate Smt. Neelima Gohad)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
DHQ PO, New Delhi 110 011.
2. The Commandant,
National Defence Academy,
Khadakwasla,
Pune - 411 023.
3. The Principal,
National Defence Academy,
Khadakwasla,
Pune - 411 023.

... Respondents.

(By Advocate Shri R. R. Shetty for
Shri R. K. Shetty).

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

The Applicant, who is a Demonstrator in the National Defence Academy at Khadakwasla, seeks through this O.A. the following reliefs :

- "(a) to declare that the Applicant is entitled for the U.G.C. scale of pay of Rs. 1740-3000 w.e.f. 01.01.1986, meant for the Demonstrators,

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- (b) to direct the Respondents to place the Applicant in the scale of pay of Rs. 1740-3000 w.e.f. 01.01.1986 and refix his pay by giving/granting him annual increments from 1987 onwards till date and to pay all the arrears of pay arising out of the above fixation of pay w.e.f. 01.01.1986,
- (c) to pass any other orders or directions in the facts and circumstances of the case and in the interest of justice.
- (d) to award cost of application."

2. Learned Counsel for the Applicant takes the contention that the issue has already been decided by this Tribunal and in support of this contention he cites the judgements of the Mumbai Bench and Allahabad Bench of this Tribunal, copy of judgements at page 17 and 21 of the O.A., respectively. Learned Counsel for the Applicant took us through the O.A. and also pleaded for ordering of arrears.

3. We have also heard the Learned Counsel for Respondents, Shri R. R. Shetty, who based his argument on the Written Statement filed by the Respondents.

4. We have seen all papers in the case and after considering the arguments on both sides, are convinced that this is a covered matter and that this Bench has no reason to disagree with the views taken and conclusions arrived at in the judgement made on 01.09.1997 jointly on O.A. Nos. 1049/96 and 113/97. Accordingly, the relief will also have to be provided to the applicant on the same lines.

5. In view of the above position, this O.A. is allowed in terms of the order as follows :



- (i) The Applicant in this O.A. is held entitled to the pay scale of Rs. 1740-3000. Respondents are directed to notionally fix the pay scale of the Applicant in the aforesaid scale w.e.f. 01.01.1986. Actual arrears will be payable only with effect from one year before the month and year of filing, i.e. from 01.01.1997.
- (ii) For the implementation of this order, the Respondents are granted three months from the date of receipt of the copy of this order.
- (iii) There will be no order as to costs.

P.S.M.
(S.L. JAIN)
MEMBER (J)

OS*

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

CP No.118/2002 in
OA No.822/1998

21/3/2003

Ms. Neelima Gowhad for Shri S.P. Saxena,
Counsel for applicant and Shri R.R. Shetty,
Counsel for Respondents.

The respondents submit that they have
complied with the directions of this Tribunal in
OA 822/1998 by granting the payscale of
Rs.1740-3000/- and further notional pay fixation
from 1/1/1986 and arrears from 1/1/1997.
However, the respondents would be filing a reply
in a weeks time.

The learned counsel for the applicant
submits that no doubt the respondents had granted
him the scale of Rs.1740-3000/- but the
respondents have refused to grant the replacement
scale for the same as per the recommendations of
the 5th Pay Commission. Let the reply be filed
by respondents.

List the case for orders on CP on
4/4/2003.



(K.V. SACHIDANANDAN)
MEMBER(J)



(SMT. SHANTA SHASTRY)
MEMBER(A)

abp

Letter No-822/1998 is
• call dt 25/3/03 read
in Command of
the Tribunal order dt
21/3/03, got it my
w-c-11/186 in
M 90, 2087 7th
rest in 'C' status

R
21/3

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Per Tribunal

Date: 04/4/03

Applicant in Person/by

Advocate/Respondent by

Both parties

Council... ~~right~~ ... ~~possible~~

The matter adjourned to 25/4/03

For

By: M Registrar

4/4

Affidavit of Respondents
see on
7/4/03
M

1/5
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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

CP No.118/2002 in
OA No.822/1998

25/4/2003

Shri S.P.Saxena learned counsel for the applicant has made available to us a letter dated 11/3/2003 bearing the heading, IMPLEMENTATION OF REVISED UGC PAY SCALE (RS 5500-9000) and signed by one Shri A.N.Thakur, Lt.Col.

The letter inter alia says that it is mentioned that Hon'ble CAT, Mumbai vide their judgement dated 01 August, 2002 in OA 822/98 had directed to give to Shri Amar Singh the pay scale of Rs.1740-3000 w.e.f. 01 Jan 86 notionally and pay arrears w.e.f 01 Jan 97. There is no direction to give him subsequent benefit of pay scale of Rs.5500-9000.

In view of above, the individual's request to grant him pay scale of Rs.5500-9000 cannot be accepted.

A bear reading of the letter suggests that the authority concerned is making mockery ~~statement~~ of the directions given by this Tribunals. When the directions were given to place the applicant in the pay scale of Rs.1740-3000 w.e.f. 1/1/1986, then it goes without saying that corresponding revised payscale also will be available ~~given~~ to the applicant and refusing the applicant the benefit of the revised payscale of Rs.5500-9000 is

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clearly absurd. It is quite obvious that the concerned authority's observation that there is no direction to give him subsequent benefit of pay scale of Rs.5500-9000 shows utter disregard to the rule provision. To say that there is no direction to give him subsequent benefit of pay scale of Rs.5500-9000 which is the revised scale of Rs.1740-3000 is to twist the orders passed by this Tribunal. However, the learned counsel for respondents prays for time to obtain necessary instructions as to why such an order has been passed. By the next date, he should verify the position and inform the court.

List the case on 30/5/2003.

A copy of this order be given to Shri R.K.Shetty.

Shankar Prasad

(SHANKAR PRASAD)
MEMBER(A)

A. S. Sanghvi

(A. S. SANGHVI)
MEMBER(J)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

RP.64/2003 With MP. 849/2003
in OA.822/98

Date of Decision : 06 .11.2003

Union of India & Ors. : Applicant(s)

Mr.R.K.Shetty : Advocate for the applicant (s)

Versus

Shri Amar Singh : Respondent (s)

_____ : Advocate for the respondent (s)

CORAM:

Hon'ble Mr.A.S.Sanghvi : Member (J)

Hon'ble Mr.Shankar Prasad : Member (A)

ORDER

1. **Whether Reporters of Local papers may be allowed to see the Judgment ?**
2. **To be referred to the Reporter or not**
3. **Whether their lordships wish to see the fair copy of the judgment ?**
4. **Whether it needs to be circulated to other Benches of the Tribunal ?**

: 2 :

Union of India & Ors. : Applicants
(By Advocate: Mr.R.K.Shetty) (Ori.Respondents)

Versus

Shri Amar Singh : Respondent
(Ori.Applicant)

(Decision by Circulation)

ORDER

RP/64/2003 With MP. 649/2003

in OA.822/98

Date: 06-11-2003

Hon'ble Mr.A.S.Sanghvi : Member (J)

Considering the issue raised in this Review Application as well as considering the ground for condoning the delay in filing this Review application, the delay is condoned.

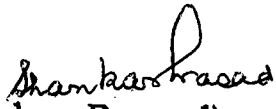
2. This application for the review/recall of the order dated 25.4.2003 passed in CP No.118/2002 in OA.822/98 is moved by the original opponent of the CP. Though the application is described as the review application and seeks to review or recall the order dated 25.4.2003 we are unable to understand as to how such an application is maintainable and how it can

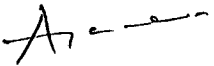
be said that the order deserves to be reviewed as there is no order passed by the Tribunal^{on} dated 25.4.2003. When our attention was drawn to the letter dated 11.3.2003 bearing the heading Implementation of Revised UGC Pay Scale (Rs.5500-9000) and signed by Shri A.N.Thakur, Lt. Col. at the time of hearing of the CP.118/2002, we had made certain observations in the order sheet pertaining to the contents of that letter but had not passed any order or given any direction to the opponents as the learned counsel for the respondents had prayed for time to obtain necessary instructions as to why such a letter was written or such an order was passed. We had thereupon refrained from passing any order or giving any direction to the opponents in the CP and had only adjourned the CP to enable the learned counsel of opponent to obtain necessary instructions about the circumstances in which such a letter had come to be written. It is no doubt true that we had made some observations pertaining to the replacement scale to be given to the applicant but these observations had to be made in view of the cryptic and laconic letter written by Shri A.N.Thakur, Lt. Col. In the order we had pointed out that the Lt.Col. Shri A.N.Thakur had rejected the demand of the applicant to give him the pay scale of Rs.5500-9000 on the ground that there was no direction given by the CAT in OA.822/98 to give him subsequent benefit of Rs.5500-9000 .

It was not explained by the author of that letter why the pay scale of Rs.5500-9000 was not admissible so far as the applicant was concerned. On the contrary the wording of the letter had created an impression that the scale of Rs.5500-9000 was being denied to the applicant merely because there was no direction given by the CAT in the judgment dated 1st August 2002 in OA.822/98. Since the scale of Rs.5500-9000 is a replacement scale for the old pay scale of Rs.1740-3000 we had observed that to say that there was no subsequent direction to give pay scale of Rs.5500-9000, which is the replacement scale of Rs.1740-3000, in the order passed by the Tribunal is to twist the order. We had however not given any direction to the opponent to place the applicant in the pay scale of Rs.5500-9000 and on the request of the learned counsel for the respondents we had adjourned the CP to facilitate the learned counsel for the respondents in obtaining necessary instructions in this regard. It is therefore, rather surprising that such an application is moved ~~for~~ claiming that the order deserves to be reviewed or recalled. We may note that there is no order which requires to be reviewed or recalled as no final directions were given on dated 25.4.2003. It is open to the learned counsel for the respondents to clarify the position under what circumstances such a letter was written by Shri A.N.Thakur Lt.Col. and also to point out whether this would amount to contempt or not. The observations made in

the order does not give any cause for filing review application. We are therefore of the opinion that review is not maintainable. It is open to the learned counsel for the opponent of the CP to point out the circumstances in which the letter was written and explain the contents of the letter to the Tribunal.

3. The Review is therefore, rejected with no order as to costs.


(Shankar Prasad)
Member (A)


(A.S. Sanghvi)
Member (J)

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