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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

MA.130/92 and
OA.985/90

date of decision : 5-8-1993

T. Krishna Rao : Applicant

Versus

1. Flag Officer Commanding in Chief
East Naval Command Headquarters
Visakhapatnam 14

2. Chief of Naval Staff
Naval Headquarters
New Delhi 11

3. The Secretary
Ministry of Defence
Secretariat Buildings
New Delhi

: Respondents

Counsel for the applicant : V.V. Narasimha Rao
Advocate

Counsel for the respondents : N.V. Ramana, Addl. SC for
Central Government

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri V.V. Narasimha Rao, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant retired from service on 30-6-1990 as M.T. Driver Grade I in the pay scale of Rs.320-400. The demand of M.T. Drivers Grade I in the pay scale of Rs.320-400 for the pay scale of Rs.380-560 was referred to Arbitrator Board. An award was passed on 12-8-1985 and the relevant

SDG

portion therein reads as under :

"3. The demand of the staff side for the introduction of the pay scale of Rs.380-560 as Grade I for civilian motor drivers working in the various directorates of the Ministry of Defence is accepted. This will be treated as a selection grade and 20% of the posts of Drivers in the scale of Rs.320-400 will be placed in the Grade of Rs.380-560.

4. This award will come into operation with effect from 22nd September, 1982".

.. The Central Government had taken a decision on 11-11-88 to implement the said award from 1-1-1988. The award was placed on the Table of Parliament. Lok Sabha passed a resolution on 13-10-1989 accepting the modification suggested by the Government that the award had to be implemented from 1-1-1988. The Rajya Sabha passed a resolution to that effect on 28-10-1989.

4. It is manifest from the award that 20 per cent of the M.T. Drivers Grade I have to be given the upgraded scale of Rs.380-560. There are 148 posts of MT Driver Grade I in the Eastern Naval Command and hence ^{had} 20% come to 30 posts. But as per letter No.CP(NR)2808, dated 3-7-1989, only 14 posts were released for the Eastern Naval Command ~~by~~ providing the benefit of upgraded scale. It is stated for the respondents that only 11 M.T. Drivers Grade I were given that scale from 1-1-1988.

5. It is contended for the applicant that when the award provided that the upgraded scale had to be given from 22-9-82, it is not open to the Central Government to modify to 1-1-88. It is further urged for the applicant that when as per the award 20 per cent of the M.T. Drivers Grade I have to be given the benefit of the upgraded scale, it is not open to the respondents to reduce that percentage. They are the points for consideration in this OA.

2nd PG
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6. The demands of the M.T. Drivers Grade I and the demands of the Senior Scientific Assistants (SSAs) in the various laboratories under the Defence Research & Development Organisation were referred to an Arbitration Board and the same were registered as CAS 9 & 10 and they were disposed of by the same award dated 12-8-1985. The Arbitration Board held that the upgraded scale to both the SSAs and the MT Drivers Grade I had to be given from 22-9-1982. When the said award was not implemented some of the SSAs filed OA.952/86 on the file of Principal Bench on 11-3-1986. Pending disposal of the said OA, the Central Government had taken a decision on 11-11-1988 to implement the award from 1-1-1988. The Principal Bench disposed of OA.952/86 on 10-8-1989 by observing that it is for the Parliament but not for the Government to modify an award and as the award dated 12-8-1985 was not modified by the Parliament the benefit had to be given from 22-9-1982 as per the award. The SLP.14911/89 against the order in OA.952/86 was disposed of by order dated 19-1-1990 stating that it is open to the respondents to move the Principal Bench for review by relying upon the resolutions of the Lok Sabha and the Rajya Sabha. RP.39/90 in OA.952/86 was rejected on 10-4-90 by the Principal Bench. The SLP was dismissed as formalities were not complied with.

7. OA.244/89 on the file of Madras Bench was filed by some of the SSAs claiming upgraded scale from 22-9-1982. The same was allowed on 30-4-1992. SLP.14920/90 was filed against the said order. Pending disposal of the said SLP, portion of the order dated 30-4-1992 in OA.244/89 of Madras Bench was suspended.

200/9

8. Some of the SSAs filed OA.1030/92 on the file of this Bench, praying inter-alia for the benefit of the upgraded scale from 22-9-1982. We disposed of the same on 22-7-1993. As the order dated 30-4-92 of the Madras Bench in OA.244/89 whereby the claim of the applicants (SSAs) for the benefit of upgraded scale from 22-9-82 was allowed, was suspended by Supreme Court, we ordered as follows in OA.1030/92 :

"The applicants have to be given the upgraded scale from 1-1-1988. If ultimately, the Supreme Court holds that the benefit of the upgraded scale had to be given from 22-9-1982, or if the Supreme Court gives any partial relief, the applicants herein also had to be given the same relief. But if the Supreme Court upholds the case of the respondents that the benefit had to be given from 1-1-1988 only, the OA in regard to the said relief stands dismissed."

9. As the demand of the M.T. Drivers Grade I for the higher scale and the demand of SSAs for the higher scale were considered as per the same award dated 12-8-1985, and as the points for consideration which arise in regard to SSAs and M.T. Drivers Grade-I are same, it is just and proper to pass the orders ^{similar} ~~same~~ to the order which was passed by this Bench on 22-7-1993 in OA.1030/92 in regard to the date from which the upgraded scale had to be given, ~~thereby passed~~.

10. It is evident from the award dated 12-8-1985 that 20 per cent of the M.T. Drivers Grade I had to be given the benefit of the upgraded scale. The said percentage was not modified by the Parliament. Hence, it is not open to the respondents to limit the benefit to a per cent less than 20 per cent. Hence, we find that the upgraded scale had to be given to 20 per cent of the M.T. Drivers Grade I in the Eastern Naval Command, Visakhapatnam.

6/10/93

11. M.A. 130/92 was filed praying for a direction for production of records pertaining to seniority of MT drivers, Eastern Naval Command from 1970 onwards and also records pertaining to supervisor M.T. The records referred to in the M.A. are not relevant in the view which we have taken in this O.A. Accordingly the M.A. is dismissed.

12. If the applicant is within 30 of the M.T. Drivers Grade-I he had to be given the upgraded scale from 1-1-1988 and he is also entitled to the consequential monetary benefits during the service and also after retirement.

13. The time for implementation is three months from the date of receipt of this order.

O.A. is ordered accordingly. No costs.

P.T.Thiruvengadam
(P.T.Thiruvengadam)
Member (Admn.)

V.Neeladri Rao
(V.Neeladri Rao)
Vice-Chairman.

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Dated: August 5, 1993
Dictated in the open court.

Dy. Registrar

sk/mhb

Copy to:-

1. Flag Officer Commanding in Chief East Naval Command Headquarters, Visakhapatnam-14.
2. Chief of Naval Staff, Naval Headquarters, New Delhi-11.
3. The Secretary, Ministry of Defence, Secretariat Buildings, New Delhi.
4. One copy to Sri. V.V.Narasimha Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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M.A. 130/92
985/90

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.RIRUVENGADAM:M(A)

Dated: 5/8/ -1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N. 130/92

O.A.No.

in
985/90

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

