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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A.1387/97.

Dt. of Decision : 21-11-97.

Smt. B.Sita

.. Applicant.

Vs

1. The Union of India rep. by the Secretary, Min. of Defence, DHQ PC, New Delhi-11.
2. The Engineer-in-Chief, Army Head Quarters, Kashmir House, DHQ PC, New Delhi-11.
3. The Chief Engineer, Southern Command, Pune, Maharashtra-1.

.. Respondents.

Counsel for the applicant : Mr.K.S.R.Anjaneyulu

Counsel for the respondents : Mr.K.Ramulu, Addl.CGSC

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mrs.Shyama for Mr.K.Ramulu, learned counsel for the respondents.

2. The applicant is wife of late B.V.Subba Rao and the applicant is legal representative of the deceased employee.
3. The husband of the applicant in this OA joined as Lower Division Clerk (LDC for short) in Military Engineering Service (MES for short) on 22-3-45 and died on 1-2-92. At that relevant time there were only two grades available viz., LDC and UDC. In 1944 on account of restructuring of the department, three grades viz., A, B and C were formed. This classification of A, B and C was done in pursuance to the instructions of the unified scales introduced by the then Govt. of India memorandum dt. 19-8-44. Thereafter Varadacharyulu Pay Commission Report was duly published and notified by the respondents. Pursuant to this report new pay scales were introduced some time in the year 1947. As

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a result of which all the three grades were abolished and in that place 2 grades viz., LDC and UDC were introduced. The recommendation of Varadacharyulu Pay Commission were accepted by the respondents w.e.f., 1-1-47. It is an undisputed fact that A and B Grade clerks were equated to UDC whereas C grade clerks were equated to LDC and their pay scales were Rs.80-220/- for UDC and Rs.55-130/- for LDCs respectively. At the relevant time, the husband of the applicant was serving as Grade-B and that the contention is that deceased employee should be treated as UDC as on 19-1-47. Though deceased employee was entitled to be equated to the post of UDC, the respondents wrongly and illegally equated him and specified the husband of the applicant as LDC thereby down-grading his position. This, the applicant submits is contrary to the recommendations of the commission.

4. This OA is filed for the following reliefs:-

(i) to direct the respondents to classify her husband as UDC with effect from 1-1-47.

(ii) to re-fix the pay of the deceased in the scale of UDC and grant increments as and when due;

(iii) to calculate the difference in arrears of pay arising due to the refixation of pay and pay 60% of the amount to the applicant in terms of the order of the Supreme Court dt. 4-11-87 (Annexure-3) and also as ordered in the CAT Bombay in OA.1037/92 dated 28-9-95 and 15-4-95 and ~~xxxxxx~~ also in OA.501/93 of Calcutta Bench judgement dt. 3-1-94 and to pay other consequential benefits arising out of the above.

5. Similar OA was filed in this Tribunal i.e., OA.710/97 (M.Lakshmana Rao Vs. UOI & Ors). That was disposed of on 9-6-97 following the judgement of the Bombay Bench and also the other Benches. The payment of arrears was granted on the basis of the Apex Court judgement dated 4-11-87. As this OA is similar to that, we do not see any reason to differ from the judgement.

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6. However the learned counsel for the respondents submitted in the reply that the case is a belated one and those who have filed much earlier got 60% of the arrears and hence the applicant herein should not be given the full arrears of 60% due to her deceased husband and is eligible for only a very reduced amount. This point was also considered in OA.710/97. There also the respondents submitted that the payment of arrears should be decided suitably as it was a belated application. The Bench decided the payment of arrears on the basis of the Supreme Court direction in that OA. Further the initial judgement pronounced by the Bombay High Court is a declaratory one. It is for the respondents to comply that direction even to all those who had not approached the Court. Hence we do not think that the applicant is entitled only for a reduced amount of arrears due to belated application. The deceased employee the husband of the applicant herein is entitled for arrears equal to same as what was granted to the applicant in OA.710/97.

7. In view of the above the OA is disposed of directing the respondents to follow the judgement of the Bombay Bench of CAT in OA.1037/92 decided on 28-9-95 in so far the arrears to be paid to the applicant till the deceased employee, ^{husband} of the applicant herein survived and those arrears should be in accordance with the judgement of the Supreme Court at. 4-11-87 in Civil Appeal No.4201/87. The family pension of the applicant herein, if she is eligible should be paid in accordance with law.

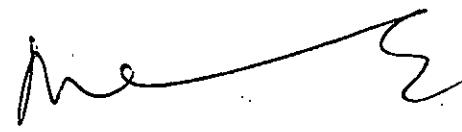
8. The OA is ordered accordingly, No costs.


(B.S.JAI PARAMESHWAR)
MEMBER(JUDL.)

21.11.97

Dated : The 21st Nov. 1997.
(Dictated In the Open Court)

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(R. RANGARAJAN)
MEMBER(ADMN.)

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