

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 37 of 2004

Jabalpur, this the 11th day of August, 2004

Hon'ble Shri M.P. Singh, Vice Chairman

K.R. Bachwani, aged about 63 years,
S/o. late Shri Lachhmanlal Bachwani
(Retired Ordnance Officer Civilian Store),
R/o. 151, Dwarka Nagar, Jabalpur. ... Applicant

(By Advocate - S. Nagu)

V e r s u s

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi.
2. Director General Ordnance Service (OSD), Master General of Ordnance Branch, Army Plead quarters HQ PO New Delhi.
3. Commandant Central Ordnance Depot, Jabalpur (MP).
4. Controller of Defence Accounts, Ridge Road, Jabalpur. ... Respondents

(By Advocate - Shri S.A. Dhamadhikari)

O R D E R (Oral)

Although this case was listed for orders, with the consent of both the parties the case was heard finally and disposed of.

2. By filing this Original Application the applicant has claimed the relief for interest @ 18% on Rs. 38,093/- from the date of wrong fixation of pay ~~scale~~ at the time of his promotion in August, 1996, till December, 2003.
3. The brief facts of the case are that the applicant who was working as an Ordnance Officer Civilian (Stores) before his retirement from the said post on superannuation on 28.2.1998, had been promoted to the said post from the post of Senior Store Superintendent in August, 1996 vide



orders of the respondents dated 27.8.1996. On promotion to the said post the applicant had expected that his duties and responsibilities as Ordnance Officer Civilian (Stores) would be higher and accordingly his pay would be fixed as per the provisions of FR-22(I) (a) (1). The Controller of Defence Accounts, Jabalpur has failed to fix his pay as per the provisions of the said rule on the ground that these provisions should not be attracted in his case, as the scale of pay of both Senior Store Superintendent as well as Ordnance Officer Civilian (Stores) is the same. When the applicant was not given the benefit under the provisions of FR-22(I) (a) (1) on his promotion to the post of Ordnance Officer Civilian (Stores), he approached the Tribunal by filing OA No. 137/1999. The Tribunal vide its order dated 22nd January, 2003 has directed the respondents to make endeavour to resolve the question of how the promotion of the applicant from a non-gazetted post to a gazetted post can be appropriately and rationally taken care of under the scheme of pay fixation, if necessary, in consultation with the Ministry of Defence/Ministry of Finance/Department of Personnel and Training. There was no clear cut finding by the Tribunal that the applicant is entitled for the grant of benefit under FR-22(I) (a) (1) on his promotion from the post of Senior Store Superintendent to the post of Ordnance Officer Civilian (Stores). The Tribunal has only suggested the respondents to consult the various Ministries who are concerned with the matter. In pursuance of the direction of the Tribunal, the respondents have considered the matter in consultation with the concerned Ministry i.e. Ministry of Defence, Ministry of Finance, Department of Personnel and Training and has come to the conclusion that the applicant is entitled for the benefit

of FR-22(I)(a)(1) with regard to his pay fixation on his promotion to the post of Ordnance Officer Civilian (Stores) as the duties and responsibility involved in the post of Ordnance Officer Civilian (Stores) are greater. Accordingly the applicant has been given the benefit and his pay has been fixed by granting him the benefit of FR-22(I)(a)(1) and consequently his pay has been fixed at the higher stage and also has been granted the ^{consequential} ~~retiral~~ benefits. As a result of which he has obtained an amount of Rs. 38,093/- . The applicant is claiming interest thereon.

4. Heard the learned counsel for the parties.

5. The learned counsel for the applicant stated that since the respondents have wrongly fixed the pay of the applicant on his promotion to the post of Ordnance Officer Civilian (Stores), it was only ^{on the} direction of the Tribunal that they have realised their mistake and granted him the benefit of FR-22(I)(a)(1) and therefore they are obliged to pay the interest on the amount of Rs. 38,093/- which was due to the applicant and ought to have been paid to the applicant during his service tenure.

6. On the other hand the learned counsel for the respondents has stated that no interest is required to be paid to the applicant by them. The Tribunal has only given a direction vide its judgment dated 22nd January, 2003 in OA No. 137/1999, suggesting the respondents to consult the concerned Ministry and take a decision to resolve the issue. Accordingly, the concerned Ministry has been consulted and then it was decided to grant the benefit to the applicant under FR-22(I)(a)(1). There is no delay in making the payment to the applicant, as the respondents have

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immediately paid the amount which has become due to the
his
applicant on account of fixation of pay at higher stage.
In support of his claim he has relied upon the judgment of
the Hon'ble Supreme Court in the case of State of Punjab
vs. Krishna Dayal Sharma, AIR 1990 SC 2177.

7. I have given careful consideration to the rival contentions made on behalf of the parties and I find that the applicant was promoted to the post of Ordnance Officer Civilian (Stores) from the post of Senior Store Superintendent in August, 1996. Both the posts were in the same scale of pay and therefore, the respondents have not granted him the benefit of FR-22(I)(a)(1). The benefit of FR-22(I)(a)(1) is granted while fixing the pay of the officer on promotion to the post which involves greater and higher responsibility. Since both the posts are in the same scale of pay, the respondents were not sure whether the benefit should be given to the applicant under the provisions of FR-22(I)(a)(1). It was only on the suggestion of the Tribunal that the matter has been consulted with the concerned Ministry and decision was taken in favour of the applicant by granting him the benefit of FR-22(I)(a)(1) and by fixing his pay at the higher stage. There is no delay on the part of the respondents in making the payment of amount which has become due as a result of fixing his pay at higher stage.

8. In view of the fact that there was no deliberate delay on the part of the respondents to deny the benefit to the applicant of FR-22(I)(a)(1) and they have taken a decision only after consulting the various Ministries as directed by the Tribunal, therefore, there is no merit in the contention of the applicant that the respondents have committed the mistake by not giving him the benefit of FR-22(I)(a)(1) and they

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are liable to pay the interest thereon. Accordingly, the contention of the applicant is rejected.

9. In view of the facts mentioned above and also in view of the judgment of the Hon'ble Supreme Court in the case of Krishna Dayal Sharma (supra), the Original Application is without any merit and is liable to be dismissed. Accordingly, the Original Application is dismissed. No costs.

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं. ओ/न्या..... जबलपुर, दि.....
परिलिखि अच्छे दिन -

(1) असिना, अच्छा न्यायालय दारा एसेसिल, जबलपुर

"SA"

(2) आरोग्य प्री/श्रीमती/वडा..... के काउंसल

(3) प्राक्षरी श्री/श्रीमती/वडा..... के काउंसल

(4) बंदगाह, टोप्रअ., जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही देखु

S. Nagh.

SA Dhammabikram

16-8-04

उप रजिस्ट्रार

*I served
on
16.8.04*