

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
CIRCUIT AT INDORE

O.A. NO.890/1998

This the 1st day of September, 2003

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

HON'BLE SHRI J. K. KAUSHIK, MEMBER (J)

Ghanshyam Sharma S/O Gordhan Sharma,
R/O House No.820-821, Teli Gali,
Mhow (MP).

... Applicant

(By Shri A. K. Sethi, Advocate)

-Versus-

1. Union of India through
Defence Secretary,
Defence Department,
Central Government,
New Delhi.
2. Directorate General of Military
Training, General Staff Branch (MT-7),
Army Headquarters, D.H.Q.,
P.O. New Delhi-110011.
3. Commandant,
College of Combat,
Mhow (MP).

... Respondents

(By Shri Vivek Saran, Advocate)

ORDER (ORAL)

Hon'ble Shri V. K. Majotra, Member (A) :

Through this OA applicant has challenged orders dated 20.1.1989 and 26.5.1998 issued by respondent No.2 (Annexures A-3 and A-9 respectively) whereby respondents have rejected the claim of applicant for grant of higher pay scale of Rs.425-640 on notional basis from July, 1976 to November, 1983. Applicant has sought quashing and setting aside of these orders and direction to respondents to grant applicant pay scale of Rs.425-640 from 1.7.1976 to 30.11.1983 and consequential benefits along with interest at the rate of 18% per annum.

2. Applicant had earlier on moved O.A. No.371/1990 which was disposed of on 26.7.1995 (Annexure A-6) directing respondents to consider applicant's case and pass suitable orders. The learned counsel of applicant pointed out that applicant had moved the Tribunal ^{by} RA 62/1995 seeking review of order dated 26.7.1995 in O.A.371/1990 which was dismissed vide order dated 6.7.1997, but a direction was given to respondents to consider applicant's claim for grant of notional increments for the period July, 1976 to November, 1983. The learned counsel contended that the action of respondents in denying applicant equal pay for equal work is illegal and without jurisdiction and as such applicant's claim must be granted.

3. The learned counsel of respondents contended that the O.A. is barred by limitation because the relief sought by applicant is for the period 1.7.1976 to 30.11.1983. He further pointed out that the relief claimed is the same as had been preferred in the earlier O.A. No.371/1990. In this view of the matter too, the O.A. is hit by res judicata. He further submitted that Army Standing Establishment Committee (ASEC, for short), which is an expert body had not recommended the upgraded pay scale of Accountant w.e.f. 1.7.1976 through the revision of pay scales and thus the notional increment cannot be granted for the said period at this belated stage.

4. We have considered the rival contentions and also perused the material on record. It is clear from the Tribunal's order dated 26.7.1995 in O.A.371/1990 that the Tribunal had observed that from 1.12.1983 applicant has also been getting the scale of Rs.425-640 as applicable to Infantry School, therefore, "there is no question of grant of the same pay scale


now. The said scale was not applicable to the College of Combat earlier." However, respondents were directed to consider applicant's case for grant of notional increments from 1.7.1976 to 30.11.1983 by passing suitable orders. On considering the review petition, in order dated 6.2.1997 the Tribunal had noted that while the Tribunal had given a direction in the O.A. to consider applicant's case for grant of notional increments for the period July, 1976 to November, 1983, it did not find any further case for grant of equal pay for equal work. The review application was dismissed accordingly.

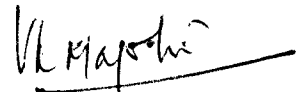
5. While the directions contained in the order in the O.A. were not reviewed in the review petition, vide Annexure A-9 dated 26.5.1998 respondents have stated that workload in July, 1976 in the College of Combat, Mhow was not found comparable to that of Infantry School, Mhow and also it was not accepted by the ASEC. The post of Accountant in the Infantry School was given the higher pay scale from July, 1976 on the basis of higher workload and functional requirements. Such a situation arose in the College of Combat from 1.12.1983. In this light, respondents did not find any merit in applicant's claim for grant of higher pay scale of Rs.425-640 on notional basis from July, 1976 to November, 1983. While the Tribunal did not find any case for grant of equal pay for equal work as sought through the review petition against the Tribunal's order dated 26.7.1995 in O.A.371/1990 respondents and ASEC had not found the workload of the post of Accountant in College of Combat, Mhow ^hcomparable to that in Infantry School, Mhow. h

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6. From the facts as discussed above, it is clear that the present O.A. certainly suffers from res judicata and furthermore, the jurisdiction of this Tribunal is limited on the issue in question. Respondents as well as ASEC, which is an expert body for evaluating the duties and functions of different posts, have not held that the post of Accountant in the College of Combat, Mhow and that of Infantry School, Mhow have an identical workload and they have not found these posts comparable for grant of same pay scale.

7. Having regard to the totality of the facts and circumstances, we do not find any ground for interfering with the stand of the respondents who have denied grant to the applicant of the pay scale of Rs.425-640 from 1.7.1976 to 30.11.1983, etc. This O.A. must fail being destitute of merit. Dismissed accordingly. No costs.


(J. K. Kaushik)
Member (J)


(V. K. Majotra)
Member (A)

/as/

For Mr. K. Shas...

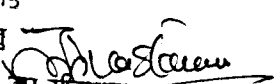


Received.
17/9/03

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
परिलिखित अचोहित:-

- (1) सुप्रीम, उत्तर मजदूरालय वार एसोसिएशन, जबलपुर
- (2) अचोहित, ओ/न्या/वृ.....के काउंसल
- (3) अचोहित, ओ/न्या/वृ.....के काउंसल
- (4) अचोहित, ओ/न्या/वृ.....के काउंसल

A.K. Sethi, Indore
V. Sarani, by hand


15.9.03