

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

JABALPUR.

....

Original Application No. 37 of 1998

this the 18th day of February 2003.

HON'BLE MR. R.K. UPADHYAYA, MEMBER (A)  
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

M.K.S. Kurup, S/o late Sri K.K. Pillai, aged about 50 years,  
TMM (Bills), Section, Admn. Block, Vehicle Factory, Jabalpur.

Applicant.

By Advocate : Sri V. Tripathi.

Versus.

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Chairman, Ordnance Factory Board, 10-A Auckland Road, Calcutta.
3. The General Manager, Vehicle Factory, Jabalpur.

Respondents.

By Advocate : Sri P. Shankaran.

ORDER (ORAL)

BY MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., applicant has sought the following relief(s):

- "(a) Summon the entire relevant records from the possession of the respondents;
- (b) Hold that the action of the respondents in not counting the special pay of Rs. 30/- for purposes of pay fixation on the post of O.S. Grade-II and onwards is bad in law.
- (c) Direct the respondents to count the special pay of Rs.30/- for purposes of pay fixation on the post of O.S. Grade-II and onwards and accordingly refix the pay of the applicant ;
- (d) Direct the respondents to pay the difference of wages after refixation of the pay of the applicant after counting Rs.30/- special pay;

in alternatively

- (e) Direct the respondents to grant the special pay of Rs.35/- w.e.f. 1979 when he was holding the post of

U.D.C./Asstt. Cashier and further direct the respondents to count this special pay for the purpose of pay fixation on the promotional posts.

(f) Direct the respondents to pay the entire amount of difference by counting this Rs.35/- of Special pay as indicated in the above relief and pay the arrears of wages to the applicant.

(g) -----

(h) -----".

2. It is submitted by the applicant that ~~he~~ filing the present O.A. as the respondents have not granted the Special pay of Rs.30/-, which was granted to him for the purposes of performing arduous nature of duties as Cashier and even on promotion to the post of O.S. Gr.II, the applicant ~~has~~ <sup>is</sup>

not been given the benefit of Special pay of Rs.30/- for the purposes of fixation of his pay to the post of O.S. Gr.II. It is submitted by the applicant that the Ministry of Defence had issued an order on 31.3.1977 under which the Special pay of Rs.30/- per month granted to the Cashiers of Ordnance Factory, <sup>heating</sup> was not to be treated as part of pay. However, by corrigendum dated 3.10.78 (Annexure A-2) the said provision of not ~~granting~~ the Special pay of Rs.30/- in the pay was deleted, therefore, the net result would be that the Special pay of Rs.30/- was to be counted for fixation of his pay even on the promotional post. It is submitted by the applicant that he gave number of representations (Annexure A-3), which was referred to the Ordnance Factory Board by orders dated 16.6.90 and 12.12.1991 (Annexure A-4 & A-5 respectively), but the higher authorities are sitting ~~over~~ <sup>till</sup> over the matter and till date his case has not been decided on merits. It is further submitted by the applicant <sup>that</sup> in the year 1994 also JCM had taken a decision to count special pay and pursuant to that, Ministry of Telecommunication had also decided to count the special pay for the purposes of pay fixation (Annexure A-9), but till date, applicant has not been given the benefit of the same.

Even otherwise, it is submitted by the applicant that he was senior most U.D.C. in the year 1979 and as per the Presidential order dated 3.12.1979 (Annexure A-10), the respondents were directed to identify the senior most U.D.Cs and to grant them Rs.35/- as Special pay. Since the applicant was an eligible person, he was entitled to get Rs.35/- as Special pay. However, even that was not given to him, subsequently vide order dated 10.8.1981 (Annexure A-11) the post of U.D.C., Cashier and Assistant Cashier were made ~~equivalent~~ posts for which a common seniority was required to be drawn and even the pay-scales of the said three posts were also same. Thus, the applicant ought to have been given atleast this special pay of Rs.35/- which should have been counted for the purposes of pay fixation on promotional post of O.S. Gr.II as well. <sup>Even this was not given</sup> He has, thus, sought the relief(s) as mentioned above.

3. The O.A. is opposed by the respondents who have submitted that the applicant was promoted to Assistant Cashier w.e.f. 1.7.1974 from LDC and than promoted to Cashier w.e.f. 1.7.1980. He has further promoted as O.S. Gr.II w.e.f. 24.9.83, therefore, the cause of action, if any, arose in the year 1983 at the time of promotion from Cashier to O.S. Gr.II, while the present O.A. has been filed only in the year 1998 i.e. after about 15 years, therefore, this O.A. is liable to be dismissed on the ground of limitation itself. They have further submitted that in the entire O.A., the applicant has not been able to show violation of any Government order governing him at the relevant point of time. They have submitted that the Special Pay which was given to him as Cashier was for the job of cash handling duty intrinsic to the post of Cashier and it was not given to him in lieu of separate higher scale of pay as such the same cannot be taken into account for the purposes of fixation of pay on promotion to higher post. They have further submitted that in Ordnance Factories there were

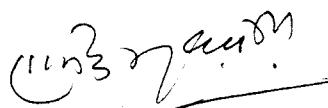
two separate grades of UDC and Cashier. The Cashier was in receipt of Rs.30/- per month as Special pay for handling cash, whereas 10% of UDCs performing discernible duties and responsibilities of a complex nature higher than those normally expected of UDCs were receiving a Special pay of Rs.35/- per month and it was the result of an award of Board of Arbitration, it was decided by the Government of India that the Special pay received by UDCs for performing duties of complex nature may be taken into account in fixation of pay on promotion, therefore, that order would not govern the applicant as he was working as Cashier and getting Special pay for cash handling. They have further submitted that in total 39 Ordnance Factories, employees are performing the duties of Cashier who are getting the Special pay for cash handling and if the claim of the applicant is admitted, it will make all others claim for similar benefits and even past cases will be opened up only to unsettle the settle things. They have submitted that if the applicant had any grievance, he ought to have raised at the relevant time and since he choose to sleep over his right, he cannot be allotted to agitate at this belated stage.

4. We have heard both the counsel and perused the pleadings as well.

5. Admittedly, the applicant was being given the Special pay as Cashier because he was handling cash and after his promotion as J.S. Gr.II, he was not required to handle the cash. There was no Government order which stated that the Special pay has to be counted while fixation of pay in the promotional post, whereas there was a specific order in the case of UDCs, which was decided pursuant to an Arbitration between the parties. Since the applicant was not working as UDC at the relevant time, he cannot claim the benefit which was meant for UDC alone.

The orders annexed by the respondents with their reply that there is no such order with regard to the Cashier, nor has the applicant annexed any such order which shows that the special pay being given to him as Cashier should be taken into consideration while fixing his pay in the promotional post as O.S. Gr.II. Accordingly, we do not find any merit in the case. The O.A. is dismissed with no order as to costs.

(Smt. Meera Chhibber)  
Member (J)

  
(R.K. Upadhyaya)  
Member (A)

GIRISH/-

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....  
प्रतिलिपि दाता/रिप्पोर्टर

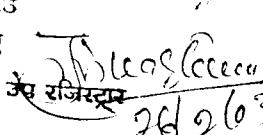
(1) राधिका, नाना शरदाराव बाबा, बांडोलराव, जबलपुर

(2) ~~नाना शरदाराव बाबा~~..... ने कठंसल

(3) ~~जबलपुर न्यायदीनी/वक्तु~~..... ने कठंसल

(4) लोकप्रिय, लोकसंघ, जबलपुर न्यायदीनी

सूचना एवं आवश्यक कार्यतात्त्वी हेतु

  
गिरिश  
26/2/03

Issued  
26/2/03  
C.V.