

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 3683/2013
MA 2787/2013
With
OA 4481/2013
And
OA 2221/2014
MA 1855/2014

Reserved on: 3.08.2016
Pronounced on: 12.08.2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

OA 3683/2013

1. S/Shri Kuldeep Kumar Sharma, IDAS ACGDA (Retd)
Aged 62-1/2 years S/o Late Shri J.P. Sharma
R/o 826, Mahagun Aptt. Crossing Republic NH-24
Ghaziabad (U.P.)
2. A.K. Bhasin, IDAS ACDA (Retd), aged 63 years
S/o Late Shri K.L. Bhasin R/o C-6A/106
Janakpuri, Delhi-58
3. Faquir Chand, IDAS ACDA (Retd)
Aged 61-1/2 years S/o Late Shri Gian Chand
R/o H.No. 114/D Janta Flat
Hari Nagar, New Delhi
4. Sudhir Prasad, IDAS ACDA (Retd)
Aged 60-1/2 years S/o Late Shri Makand Prasad
R/o H.No.3002, Orchid Town Paramount
Crossing Republic, NH-24
Ghaziabad
5. A.K. Thakur, IDAS ACDA (Retd)
Aged 60-1/2 years S/o Late Shri A.D. Thakur
R/o 402, MS Flat North-West
Moti Bagh New Delhi
6. M.L. Gupta, IDAS ACDA (Retd)
Aged 60-1/2 years S/o Late Shri Bishambhar Dayal
R/o Nanak Pura, South Moti Bagh,
New Delhi
7. Smt. K.N. Bhat, IDAS ACDA (Retd)

Aged 64 years W/o Late Shri VVSR Hanumantha Rao
R/o Akanksha Apptt. , Sector - 62
Noida

8. KIS Lamba, IDAS ACDA (Retd)
Aged 62-1/2 years S/o Shri Sardar TS Lamba
R/o H.No.604, Sun Shine Avenue
Faridabad
 9. A.K. Sharma, IDAS ACDA
Aged 61-1/2 years S/o Late Shri VM Sharma
R/o H.No.B-2A, Raj Kamal
Resudence NH-58, Meerut
 10. Mehar Chand Batra, IDAS ACDA
Aged 60-1/2 years S/o Late Shri C.R. Batra
R/o Q.No.226, Sector-4,
R.K. Puram, New Delhi
 11. K.N. Singh, IDAS ACDA (Retd)
Aged 64 years S/o Late Shri Sardar Mohan Singh
R/o Dwarka, New Delhi
 12. H.S. Bist, IDAS ACDA (Retd)
Aged 64 years S/o Late Shri Raja Singh Bist
R/o H.No. 3/454,
Vasundhra, Ghaziabad (U.P.)
 13. V.K. Bhatia, IDAS ACDA (Retd)
Aged 60-1/2 years S/o Ram Nath Bhatia
R/o H.No.118/1, Pocket - 6
Rohini, New Delhi
 14. N.S. Batra, IDAS ACDA (Retd)
Aged 62 years S/o Shri K.N. Bhatia
R/o B-2A/98-C, Janak Puri
New Delhi
- ...Applicants

(Through Shri V.P.S. Tyagi, Advocate)

Versus

1. The Union of India
(Through Secretary)
Ministry of Defence, South Blok
New Delhi-110001
2. The Financial Advisor-cum-Secretary
(FADS), Ministry of Defence
South Block, New Delhi-110001
3. The Controller General of Defence Accounts

Ulan Batar Marg
Palam, Delhi Cantt-110010

... Respondents

(Through Shri D.S. Mahendru, Advocate)

OA 4481/2013

1. S/Shri Ramesh Kumar Kaul, IDAS Cadre
ACDA (Retd) aged 63 years S/o Shri T.N. Kaul
R/o B05/54 Pharma Apartment Plot No.88
I.P. Extension Delhi-92
2. Shri V.K. Jain, IDAS Cadre
ACDA (Retd) aged 62 years
S/o Late Shri Jagan Nath Prasad
R/o 63-A West Arjun Nagar
Agra
3. Shri P.K. Ahuja, IDAS Cadre
ACDA (Retd) aged 60-1/4 years
S/o Late Shri Hans Raj Ahuja
R/o 32 Yadav Road
Military Quarters Ram Nagar Roorkee
4. Shri V.S. Aswal, IDAS Cadre
ACDA (Retd) aged 62-1/4 years
S/o Late Shri K.S. Aswal
R/o 157/11 Chandra Parishar
Sweta Kalan Mazra Dehradun
5. Shri G.L. Kotiyal, IDAS Cadre
ACDA (Retd) aged 63-1/4 years
S/o Late Shri G.N. Kotiyal
R/o A-2, Rishi Tower
Dehradun Road, Rishikesh
6. Shri G.S. Bist, IDAS Cadre
ACDA (Retd) aged 65-1/4 years
S/o Late Shri K.S. Bist
R/o 68, Nirmal Block PT-II
Uttar Kashi
7. Shri Mohd Ilyas, IDAS Cadre
ACDA (Retd) aged 62-1/4 years
S/o Late Shri Abdul Hamid
R/o 204/B-10 Mahima Heritage
Central Spine Vidya Sagar Nagar Jaipur
8. Shri S.D. Gaur, IDAS Cadre
ACDA (Retd) aged 64 years
S/o Late Shri A.D. Gaur
R/o 13 Ekta Avenue (Body Guard)

Rajpur Road, Dehradun

9. Shri Suresh Kumar Kotru, IDAS Cadre
ACDA (Retd) aged 62-1/2 years
S/o Late Shri Omkar Nath Kotru
R/o C-137 Type-IV CPWD Quarters South Moti Bagh
Manak Pura New Delhi-110021
 10. Shri Rajeev Gilotra, IDAS Cadre
ACGDA (Retd) aged 61-1/2 years
S/o Late Shri M.M. Lal
R/o 126 Starlite Apartments
Sector-14 Extn., Rohini-85
 11. Shri Jitendra Kumar Rastogy, IDAS Cadre
ACGDA (Retd) aged about 65 years
S/o Late Shri BMK Rastogy
R/o B-5/144, Yamuna Vihar,
Delhi-53
 12. Shri A.K. Viz, IDAS Cadre
ACGDA (Retd) aged about 62 years
S/o Late Shri ML Vij
R/o CH/49 Janak Puri
New Delhi-58
 13. Ramesh Kumar, IDAS Cadre
ACDA who is still working
Aged about 59-1/4 years
S/o Shri Mangat Ram Sharma
R/o A-162, Shradha Puri, Kanker Khera
Meerut
- ...Applicants

(Through Shri V.P.S. Tyagi, Advocate)

Versus

1. The Union of India
(Through Secretary)
Ministry of Defence, South Blok
New Delhi-110001
 2. The Financial Advisor-cum-Secretary
(FADS), Ministry of Defence
South Block, New Delhi-110001
 3. The Controller General of Defence Accounts
Ulan Batar Marg
Palam, Delhi Cantt-110010
- ... Respondents

(Through Shri G.S. Virk, Advocate)

OA 2221/2014

1. S/Shri Birbal Tejan, IDAS Pr. IFA (Navy)
New Delhi now Retired w.e.f. 31.1.2011
Aged about 63-1/2 years
S/o Late Shri Baru Singh
R/o RZJ-21/231 West Sagarpur, New Delhi-16
2. Smt. Nirmala Malik, IDAS Pr. IFA (Navy)
New Delhi aged about 61-1/2 years
D/o Shri Paulus Kazur
now Retired w.e.f. 28.2.2013
R/o 444, Plot No. 16, Jai Maa Apptt. Dwarka
Sector – 5, New Delhi
3. Naresh Kumar Bajaj, ACDA aged about 59-1/2 years
S/o Late Shri P.L. Bajaj presently service as such
In Area Accounts Office (Army) Rajpur Road, Dehradun
A Sub Office of CGDA, Delhi Cantt. R/o 2748-A
Sector-3, FaridabadApplicants

(Through Shri V.P.S. Tyagi, Advocate)

Versus

1. The Union of India
(Through Secretary)
Ministry of Defence, South Blok
New Delhi-110001
2. The Financial Advisor-cum-Secretary
(FADS), Ministry of Defence
South Block, New Delhi-110001
3. The Controller General of Defence Accounts
Ulan Batar Marg
Palam, Delhi Cantt-110010 ... Respondents

(Through Shri Rajinder Nischal, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

In OA 3683/2013, OA 4481/2013 and OA 2221/2014, the same issue is involved. Therefore, they are disposed of by this common order.

2. The applicants originally were recruited as Group 'C' employees and later promoted to Group 'B' as Senior Accounts Officer (Sr. AO) and thereafter promoted as Assistant Controller of Defence Accounts (ACDA), which is the junior time scale of Indian Defence Accounts Service (IDAS), Group 'A' Service. As Sr. AOs (Group 'B'), they were in the pay scale of Rs.8000-13500. When they got promoted into IDAS in the post of ACDA, their pay was fixed in the pay scale of ACDA, which was the same as Sr. AO Group 'B' i.e. Rs.8000-13500.

3. The claim of the applicants is that when they were promoted into IDAS, their pay should have been fixed in the senior time scale of IDAS namely Rs.10000-15200, revised to PB-3, pay scale Rs. 15600-39100 with Grade Pay Rs.6600/-.

4. Learned counsel relies on the order of the Madras Bench of the Tribunal in OA 35/2009 dated 26.04.2010. This OA was filed by one Shri T.R. Krishnamurthy, who was similarly placed as the applicants and the OA was allowed with a direction to the respondents to grant proforma promotion to Shri Krishnamurthy in the senior time scale of IDAS with reference to his junior Shri Rangaswamy with effect from 21.03.1988 i.e. when he came into IDAS. The respondents challenged this order in Writ Petition No. 23816/2010, which was dismissed vide order dated 9.09.2011.

5. The learned counsel for the applicants also relied on order dated 10.09.2013 of Chandigarh Bench of the Tribunal in OA 1238-HP-2013, again directing that applicants therein be

granted benefit of senior time scale with effect from the date they were promoted as ACDAs in the cadre of IDAS.

6. The respondents narrated the history of litigation as follows:

- (i) WPC No.1342/1979 filed in Delhi High Court by K.G. Menon and others. The Single Bench of the High Court allowed the Writ directing the respondents to pay salary to the petitioners therein in the pay scale of Rs.1100-1600 with effect from the date when they were appointed to the senior time scale posts;
- (ii) LPA 50/1981 was filed against the order of the Delhi High Court by the respondents and the order of the High Court was put in abeyance and matter remanded for fresh consideration. WPC No.1342/1979 has since been dismissed in default and for non-prosecution vide order dated 21.07.2014;
- (iii) OA 993/1999 filed by Shri Madhav Rao before the Hyderabad Bench of the Tribunal. This OA was disposed of on 27.06.2000 inter alia stating that in case Delhi High Court decides LPA 50/1981 in favour of the officers, then such benefits shall be extended to the applicant in OA 993/1999;
- (iv) RA 70/2000 filed by Shri Madhav Rao before the Tribunal. This RA was dismissed;

- (v) Writ Petition No.4027/2001 – This Writ was filed by Shri Madhav Rao in the High Court of Andhra Pradesh. It was also dismissed;
- (vi) OA 832/2010 – This was filed by 19 applicants before the Hyderabad Bench of the Tribunal. It was dismissed on 27.04.2011;
- (vii) Writ filed before the High Court of Andhra Pradesh by four applicants in OA 832/2010. This was remanded back to the Hyderabad Bench of the Tribunal for fresh consideration on merits. The OA was disposed of on 20.06.2012 by Hyderabad Bench of the Tribunal on the lines as Shri Madhav Rao basically stating that the applicants therein will be entitled for relief as ordered in LPA 50/1981 pending before the High Court of Delhi;
- (viii) OA 35/2009 decided by Madras Bench of the Tribunal, referred to above - The respondents approached the Madras High Court but the Writ filed by them was dismissed.

It is stated that decision of the Madras Bench of the Tribunal dated 26.04.2010 in OA 35/2009 was implemented on account of the pending Contempt of Court proceedings initiated by the Madras High Court. However, it is argued that that is specific with reference to the applicants in those cases.

7. Learned counsel for the respondents further states that now that WPC No.1342/1979 has been dismissed vide order

dated 21.07.2014, the claim of the applicants no longer survives.

8. We have heard the learned counsel for the parties and gone through the pleadings available on record.

9. In LPA 50/1981, the Hon'ble High Court of Delhi had put in abeyance the impugned Writ Court judgment in K.G. Menon (supra) and remanded the WPC No.1342/1979, which has now been dismissed vide order dated 21.07.2014. Therefore, in our view, no fresh claim arises and the applicants cannot claim benefit of senior time scale on first appointment.

10. Moreover, order of the Madras Bench of the Tribunal in OA 35/2009 cannot be held to be an order *in rem* because it was passed in favour of the applicants therein in particular facts and circumstances of that case.

11. In view of above discussion, we find no merit in these OAs and they are, therefore, dismissed. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

/dkm/