

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

**O.A. No.103/2014**

**Reserved on: 27.09.2018**

**Pronounced on: 10.10.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)**  
**Hon'ble Mr. A.K. Bishnoi, Member (A)**

1. P.S. Gosain, aged about 64 years  
S/o Late Sh. S.S. Gosain  
Presently superannuated w.e.f. 31.12.2009  
While last posted as Sr. AO, Gp 'B', Gazetted Officer  
In Defence Accounts Department  
In the Organization of PAO  
RRRC Delhi Cantt, under the  
Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
2. P.S. Negi, aged about 65 years  
S/o Late Sh. D.S. Negi  
Presently superannuated w.e.f. 31.12.2008  
While last posted as Sr. AO, Gp 'B', Gazetted Officer  
In Defence Accounts Department  
In the Organization of PAO  
RRRC Delhi Cantt, under the  
Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
3. Brij Kumar, aged about 60 years  
S/o Late Sh. Hukum Chand  
Presently superannuated w.e.f. 31.12.2013  
While in I.D.A.S. Cadre Gp 'A',  
Officer Assistant Controller of Defence Accounts  
In IFA IDS/SFC New Delhi, under the  
Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
4. Tara Chand, aged about 60 ½ years  
S/o Late Sh. Ram Charan,  
  
Presently superannuated w.e.f. 31.07.2013  
While posted as Dy. CDA Gp 'A',  
In DAD in the organization of CDA (Army)

Under CGDA Delhi Ministry of Defence

5. G.R. Kaith, aged about 60 years  
S/o Late Sh. Ram Rakha  
Presently superannuated w.e.f. 31.05.2013  
While as I.D.A.S. Cadre Gp 'A',  
Gazetted Officer Assistant Controller of  
Defence Accounts posted in  
Accounts Office (Pay)  
Sampark C/o 56 APO Under the  
Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
6. M.K. Sharma, aged about 68 ½ years  
S/o Sh. Bhodutta Sharma  
Presently superannuated w.e.f. 31.07.2005  
While last posted as Accounts Officer Gp 'B',  
Gazetted Officer in LAO (Red Fort)  
A Sub Office of PCDA (WC) Chandigarh  
Under the Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
7. Shailender Kumar Sharma, aged about 59 years  
S/o Late Sh. Om Prakash Sharma  
Presently posted as ACDA Gp 'A',  
Gazetted Officer in Defence Accounts Department  
In PAO (ors) BRC Danapur Cantt  
Under the Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
8. Krishan Kumar Ahuja, aged about 55 ½ years  
S/o Late Sh. Gur Charan Singh Ahuja  
Presently posted ACDA Gp 'A',  
Gazetted Officer in Defence Accounts Department  
In CDA (Patna) Under the  
Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence
9. Naresh Kumar Bajaj, aged about 59 years  
S/o Late Sh. P.L. Bajaj  
Presently posted as ACDA Gp 'A',  
Gazetted Officer in Defence Accounts Department  
In Area Accounts Office (Army) of CDA (Dehradun)  
Under the Administrative Control of CGDA  
Delhi Cantt. Ministry of Defence

-Applicants

(By Advocate: Shri V.P.S. Tyagi)

**Versus**

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

-Respondents

(By Advocate: Shri Subhash Gosain)

**ORDER**

**Hon'ble Mr. A.K. Bishnoi, Member (A):**

The applicants have sought the following reliefs:-

- “(a) Quash and set aside the contention of the respondents that the benefit of the Hon'ble Tribunals (Madras) Bench could be implemented in the case of the applicants in the OA and not to other similarly situated employees, being wrong and direct the respondents to extend the benefit of the order which has attained finality on dismissal of the SLP filed by the UOI against the order as well as by extending the benefit of this Court Order dt. 14.12.2012.
  - (b) Direct the respondents to step up the pay & allowance of the applicants herein in the instant OA at par with the juniors and similarly situated employees in OA No.260/2002 in r/o 25 officers to whom benefit of Hon'ble CAT (Madras) Chennai Bench order dt. 13.11.2002 which is implemented also and workout the quantum of arrears which need be paid to the applicant with all consequential impact on the retiral benefit.
  - (c) Pass any order or direction as deemed just and proper in the facts and circumstances of the case with award of the cost of the OA in favour of applicants.”
2. The facts of the case as submitted by the applicants are as follows:

2.1 The applicants are officers in Group 'A' and Group 'B' services of the respondent-department. Most of them retired while some are still in service. On passing the Subordinate Accounts Service Part-II Examination before 1986, they were promoted as Section Officer (Accounts) in Defence Accounts Department.

2.2 Meanwhile, one Shri L. Narhari passed the same examination in 1986 and was promoted as Section Officer (Accounts) on 19.03.1990. He was further promoted as Assistant Accounts Officer (AAO) on 03.07.1995 and the applicants in the present OA were also promoted to AAO on the same date, i.e., 03.07.1995 or prior to that. However, the pay of Shri L. Narhari on promotion as Accounts Officer was fixed at a higher level than that of his seniors.

2.3 Some of these employees approached the Bangalore Bench of the Tribunal where they were given the relief of stepping up of their pay at par with their junior Shri L. Narhari in OA Nos.670/1999, 831/1999 and 832/1999-**N.S. Shiva Kumar & Others vs. Union of India & Ors.** vide order dated 10.11.2000 in which Shri L. Narhari was also impleaded as private respondent.

2.4 In the meantime, another set of applicants viz. R. Sridharan & 24 others approached CAT Madras Bench in OA No.260/2002, which was allowed on merit vide order dated 13.11.2002 and the respondents were directed to step up the pay of the applicants therein at par with that of Shri L. Narhari. This order was

challenged before the Hon'ble High Court of Judicature at Madras through Writ Petition No.20774/2003, which was dismissed through order dated 27.11.2008. The respondent-department approached the Hon'ble Supreme Court through SLP (C) No.14167/2009, which was dismissed on 01.10.2009.

2.5 The applicants have submitted that the Hon'ble CAT Madras Bench order dated 13.11.2002 has attained finality and implemented by the Ministry of Finance, Department of Expenditure vide their ID No. 174/JS (Pers)/2010 dt. 12.2.2010 intimating that they agreed to implementation of the CAT Madras order dated 13.11.2002 in OA No. 260/2002 in respect of the applicants therein only.

2.6 The applicants in the present OA claim that they are similarly placed as the applicants who were granted relief through OA No.260/2002 but denied the same benefit as they were not applicants in that OA. They have placed reliance on several case-laws through which it has been held that persons who are similarly situated should get the same benefit as some others who have got the relief through the Court orders even if they are not party to the litigation.

2.7 Learned counsel for the applicant has relied upon the following cases on similar treatment:-

“i) **Inderpal Yadav Vs. Union of India** (1985) 2 SLR 248;

ii) **K. I Shephard & Others vs. Union of India** AIR 1988 SC 686;

iii) **K.T. Veerappa & Others vs. State of Karnataka and Others** (2006) 9 SCC 406; and

iv) **State of Karnataka vs. C. Lalitha** (2006) 2 Sec. 747”.

3. The respondents in their counter-affidavit have admitted that the applicants in the present OA are similarly placed as Shri R. Sridharan but have contended that they are not entitled to the same benefits as they were not party to that litigation. They have also gone on to explain in detail the career progression of Shri L. Narhari and how his pay was fixed at different stages. They have mentioned that the matter was referred to Ministry of Finance, Department of Expenditure who have not accepted the proposal in view of the provisions contained in DoPT OM no.4/7/92-Estt.(Pay-1) dated 04.11.1993.

4. The applicants have filed rejoinder in which they have substantially reiterated their averments as stated in the OA.

5. The respondents have also filed reply to the rejoinder in which they have referred to the order of this Tribunal dated 15.09.2015 in OA No.3918/2013 with OA 4212/2013 wherein with regard to the applicants therein, it was held as follows:-

“In our view, the case of the applicants is not covered by FR-22 and OM dated 04.11.1993. Therefore, the orders of the Hon’ble High Courts of Madras and Bangalore would be restricted to the petitioners only in those cases and not suo motu apply to the

applicants in the present cases. The OAs are, therefore, dismissed. No costs”.

They have also referred to the order of the Hon’ble High Court of Kerala in O.P. CAT No.446/2012.

6. It can be seen that the judgment of the Hon’ble High Court of Kerala in OP (CAT) No. 446/2012 was specific to the facts and circumstances of the matter. As such, the same cannot be used to get the benefit of the same in the present case.

7. As far as the decision of the Tribunal in OA No.3918/2013 is concerned, the case of the applicants in that particular OA was examined and, therefore, the order was specific to the facts before the Tribunal. As such, the consequence of the decision does not find any application to the present case.

8. In **Amrit Lal Berry v. Collector Central Excise** AIR 1975 SC 518, the Hon’ble Apex Court observed as under:

“.....We do not think, that, merely by filing repeated or delayed representations, a petitioner can get over the obstacles which delay in approaching the Court creates because equitable rights of others have arisen. We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.”

9. It may be noted that initially the benefit was given to set of employees by the Bangalore Bench of the Tribunal. Thereafter the

Madras Bench of the Tribunal taking into consideration the decision of Bangalore Bench of this Tribunal, granted relief to the petitioners, which has filed the OA before them by observing as follows:-

“7. It must be remembered that in the batch of OAs decided by the Bangalore Bench of this Tribunal the very same person, viz., L. Narhari was the private respondent against whom seniors were given stepping up of pay. In the instant case also a comparison is made only with reference to the same person, viz. R 7 L. Narhari for the same purpose. Therefore, it stands to reason that the ratio of the judgment of the Bangalore Bench would squarely apply to the case of the applicants herein. To simply state that the ratio will be applicable to only the applicants who had approached the Bangalore Bench of this Tribunal is only to brush aside the request of the applicants, without understanding the reasoning or the ratio of that judgment which is squarely applicable to be case on hand”.

The matter went upto the Apex Court where the SLP (C) No. 14167/2009 was dismissed.

10. In a similar matter, the Principal Bench of this Tribunal in OA No. 1979/2011 with connected matters under similar conditions allowed the OA vide order dated 14.12.2012, by passing the following directions:-

“Consequently, we allow OA No.1979/ 2011 and direct the respondents to step up the pay and allowances of the applicants herein at par with their juniors and similarly placed employees who are parties in OA No.260/2002”.

11. We have already seen that in a similar situation, the Madras Bench of this Tribunal has taken a view that similarly placed persons should be given the same relief and the same has been accepted by the Hon'ble High Court of Madras, even the Apex Court



has chosen not to interfere in this matter by dismissing the SLP. The Apex Court has made it clear that the question of law shall remain open.

12. The respondents have themselves in their counter affidavit stated that in the subject case, the applicants are similarly placed with Shri R. Sridharan.

13. That being the case, there is no reason for us to get into the issue whether the applicants are similarly placed or not as the applicants in OA No. 260/2002.

14. The main issue to be determined is whether similarly placed persons who have been given a particular relief can the same be denied to the applicants simply on the basis that they were not parties to the litigation in which such benefit was granted to other similarly persons. In this regard, learned counsel for the applicants has relied on the following judgments:-

**“1. Tilak Ram & Ors. vs. Ministry of Defence & Ors.** [OA No.668/2012 decided on 30.09.2014];

**2. Raj Pal Dhruga & Ors. vs. Union of India & Ors.** [OA No.1012/2012 decided on 08.10.2014];

**3. Union of India & Ors. v. Kuldeep Kumar Sharma & Ors.,** [W.P. (C) No.3435/2013 & connected matters, decided on 24.05.2013].

15. On going through the above, there is no doubt left in our mind that if the benefit is given to a certain set of employees then the same cannot be denied to the others who are similarly placed. When a principle has been laid down in several similar matters then it cannot be argued that the principle applies only to the parties to the case and not to other similarly placed persons and that they have to approach the Court for seeking the same relief. If that would be the case it would unnecessarily lead to multiplicity of litigation, an exercise in futility involving both the litigants as also the courts.

16. Under the circumstances, this OA is disposed of with a direction to the respondents that they should consider the case of the applicants before us and if they are found identically placed, as the applicants who were given the benefit through the Court's order in OA No.260/2002 (supra) then the same should be granted to them. This exercise shall be completed within two months from the date of receipt of a certified copy of this order. No order as to costs.

**(A.K. BISHNOI)**  
**MEMBER (A)**

**(V. AJAY KUMAR)**  
**MEMBER (J)**

cc.