

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

O.A. No. 446/2014
M.A. No. 591/2014 and M.A. No. 592/2014

Reserved on :14.08.2018
Pronounced on :20.08.2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

1. Mahabir Singh Gosain,
S/o Late Shri Bachan Singh Gosain,
Ex. Demonstrator,
Army Cadet College,
I.M.A., Dehra Dun.
R/o 384, Indira Nagar Colony,
P.O. New Forest,
Dehra Dun – 248 006.

2. Ashok Kumar,
S/o Late Shri Attar Singh,
Ex. Demonstrator,
Army Cadet College,
I.M.A., Dehra Dun.
R/o 47-C, D.L. Road,
Dehra Dun – 248 001.

.. Applicants

(By Advocate: Mrs. Meenu Mainee)

Versus

Union of India through:

1. The Secretary
to the Government of India,
Ministry of Defence,
South Block, New Delhi.
2. The Director General,
Military Training,
General Staff Branch,
Army Headquarters, DHQ, New Delhi.
3. The Commandant,
Indian Military Academy,
Dehra Dun.

.. Respondents

(By Advocate : Shri Ashish Nischal for Shri Rajinder Nischal)

ORDER

By Mr. V. Ajay Kumar, Member (J)

MA No.591/2014

For the reasons stated therein, the MA filed for joining together in a single application is allowed.

MA No.592/2014

The MA filed for seeking exemption from filing translated copies of dim annexures is also allowed.

OA No.446/2014

The applicants, 2 in number, and retired as Demonstrators from the respondent-Army Cadet College, Indian Military Academy, Dehradun, filed the OA seeking the following reliefs:-

“8.1 That the Hon’ble Tribunal may be graciously pleased to allow the OA and quash the following impugned orders in so far as the Respondents have allowed the pay scale of Rs.2200-4000/8000-13500 from 01.01.2002 instead of 1993 and 1994 respectively:

i. Impugned Order No.46131/MSG/IMA/GS/MT-7 dated 23rd August, 2013 passed by Director MT-7, Directorate General of Military Training/MT-7, DHQ P.O., New Delhi, communicated by Commandant, Indian Military Academy, Dehradun vide his letter No.096303/Dems/MSG/Est (Civ-3) dated 10.09.2013.

ii. Impugned Order No.DO PartII Nos.166 and 167 dated 06.08.2010 and 07.08.2010 passed by the CGO, Est. Officer, Indian Military Academy, Dehradun.

8.2 That the Hon’ble Tribunal may further be graciously pleased to direct the Respondents to grant the UGC pay scale of Rs.2200-4000/8000-13500 from the following dates on which the applicants had already completed 16 years of service from the date of their appointment:

Shri Mahabir Singh Gosain 13.08.1993

Shri Ashok Kumar

15.12.1994

8.3 That the Hon'ble Tribunal may be further graciously pleased to direct the respondents to grant all consequential benefits to the applicants.

8.4 That the Hon'ble Tribunal may further be graciously pleased to award any other or further relief which may be deemed as fit and proper on the facts and circumstances of the case.

8.5. That the cost of the proceedings may kindly be granted in favour of the applicants".

2. The 1st applicant was appointed as Demonstrator with effect from 13.08.1977 in the Central Pay Scale of Rs.380-560/- which was subsequently revised to Rs.1320-2040 by 4th CPC with effect from 01.01.1986. The 2nd applicant was appointed as Demonstrator with effect from 15.12.1978 in the Central Pay Scale of Rs.380-560/-. The UGC pay scales were extended to the teaching staff, i.e., Principal, Professors, Readers and Lecturers of Army Cadet College with effect from 01.01.1983. Seeking extension of the UGC pay scales to the persons who are working as Demonstrators also in the Army Cadet College, the applicants along with 3 others filed OA No.537/1989 before the Allahabad Bench of this Tribunal.

3. The relief claimed in OA 537/1989, as noted in para 1 of the judgment dated 16.02.1996, is as under:-

"The applicants, who are Demonstrators in various disciplines in the Army Cadet College, have filed this application for quashing order communicated and vide letter dated 03.01.1989 rejecting the representation and for issuing a direction to the respondents to give to them pay scale of Rs.1740-3000/- with effect from 01.01.1986 and pay scale of Rs.500-900 with effect from 01.01.1973 or from the date the applicants were appointed as Demonstrators with all

consequential benefits on the principle of "Equal Pay for Equal Work".

4. The said OA was disposed of by order dated 16.02.1996, as under:-

"16. For the reasons stated above, we allow this application and direct the respondents to allow to the applicants the scale of pay of Rs.1740-3000 recommended by the University Grants Commission from the date benefit of UGC scales of pay has been extended to other members of the Teaching Staff of the Army Cadet College. This direction should be complied with within three months from the date of communication of this order. There will be no order as to costs".

5. In pursuance of the aforesaid orders, the respondents have extended the UGC scale of Rs.500-900 with effect from 01.01.1983 to the applicants. However, the applicants filed OA No.843/1998 before the Allahabad Bench of this Tribunal seeking the following reliefs:-

"(i) That suitable direction be given to the respondents to grant the consequential benefits as a result of the Grant UGC pay scale of Rs.500-900 to the applicants w.e.f. 01.01.1983 and the arrears of pay and allowances on such fixation be paid to them within a reasonable period to be fixed by this Tribunal.

(ii) That the entire length of service rendered by the applicants be counted for the purpose of promotion.

(iii) That the applicants be given a personal pay scale of Rs.2200-4000 without change of designation and duties on completion of 16 years of service or on attaining basic pay of Rs.2700/- in the pay scale of Rs.1740-3000 whichever is earlier as in the case of Lecturers".

The said OA was disposed of on 29.07.2003, as under:-

"6. Since, respondents have now admitted that applicants were paid the UGC scale of Rs.500-900 w.e.f. 01.01.1983, it goes without saying that any benefit which accrued therefrom in accordance with law would be available to the applicants on the basis of such grant of UGC scale. The necessary orders, if not passed by the respondents to this effect, shall be passed by them within the same period of 4

months from the date of receipt of a copy of this order. With the above direction this OA is disposed of with no order as to costs”.

6. Again, the applicants filed OA No.453/2005 before the Principal Bench, New Delhi, of this Tribunal questioning the non grant of the pay scale of Rs.2200-4000 revised to Rs.8000-13500 from the date they had completed respectively 16 years of service. The said OA was disposed of on 10.04.2006 as under:-

“20. In the result for the aforesaid reasons, we dispose of OA with a direction to the respondent No.1 to reexamine the claim of the applicant strictly in accordance with their own letter issued in 1997 and having due regard to the observations made above dispose of the claim of the applicants demonstrators for grant of UGC scale of Rs.2200-4000/- by a reasoned and speaking order to be issued within period of three months from the date of receipt of copy of this order. In the event the applicants are eligible and have the requisite eligibility criteria fulfilled, the aforesaid scale would be accorded to them with all consequential benefits. No costs”.

7. The applicants filed OA No.1232/2005 seeking full implementation of the decision of the Allahabad Bench of the Tribunal in O.A. No.843/1998 decided on 29.07.2003, wherein the applicants, who were Demonstrators, had been treated to be entitled for UGC Scales at par with teaching staff. The said O.A. was disposed of on 14.07.2006, as under:

“6. After hearing the learned counsel for respondents, who vehemently opposed the contentions and stated that correct pay scale has been accorded to the applicants and the decision of Delhi High Court is yet to be received by them, we dispose of the OA with a direction to the respondents to take a final decision on revision of pay scale of the applicants strictly in accordance with the decisions of the Tribunal (supra) and Delhi High Court and as a consequence of revision of pay scale at par with teaching staff in UGC and also pay fixation orders in 1999 be implemented. The aforesaid decision would be communicated to

the applicants within a period of three months from the date of receipt of a copy of this order. It goes without saying that when such a final decision is taken, the same shall show application of mind. No costs.”

8. Again, the applicants filed OA No.140/2007 before this Tribunal questioning the order dated 13.07.2006 of the respondents passed in compliance of the orders passed in OA No.453/2005 whereby their claim for grant of Assured Career Progression at par with their counter parts in UGC has been turned down. The said OA was allowed by order dated 08.11.2007 as under:-

“12. In the result, for the foregoing reasons, OA is allowed to the extent that impugned order is set aside. Respondents are now directed to act in accordance with the dicta in OA-537/1989 as well as their letter dated 11.08.97, for grant of pay scale of Rs.8,000-13,500 to applicants, with all consequential benefits, on their being qualified, as per the eligibility conditions. This shall be done within a period of two months from the date of receipt of a copy of this order. No costs.”

The Writ Petition (C) No.1688/2008 filed by the respondents against the orders in OA No.140/2007 was dismissed on 14.01.2010.

9. In O.A. No.1559/2007 filed by the applicants challenging the respondents order dated 29.12.2006 passed in pursuance of the directions of this Tribunal dated 24.07.2006 in OA No.1232/2005, they sought the following reliefs-

“8.2 That this Hon’ble Tribunal may be further pleased to direct the respondents to fix the pay of the applicants in the Revised scale of Rs.1740-3000 taking into consideration that they pay of the applicant has been fixed in the pre revised Scale of Rs.500-900 as on 01.01.86 which has been worked out by the respondents themselves i.e. Rs.675/- and Rs.700/-

respectively in respect of the applicants and the pay of the applicants as on 01.01.86 in revised Pays Scale was worked out at Rs.1980/- and Rs.2040/- respectively.

Additionally, directions for consequential benefits including interest @ 12% per annum from the date due have been prayed”.

10. The said OA was disposed of by order dated 02.05.2012 as under:-

“8. To conclude, without assuming on ourselves what legitimately is the domain of the competent authority, we find the present pay fixation of the applicants at the minimum of the replacement scale of Rs.1740-3000 deserving reconsideration by the respondents. They are accordingly directed to pass a speaking order along with a detailed calculation statement, in accordance with the MoD Circular dated 2.4.1993. This is to be done within a period of three months from the date of receipt of a copy of this order. No costs.”

11. The applicants filed the instant OA aggrieved by the Annexure A-2 order dated 06.08.2010, which was passed in implementation of the orders of this Tribunal in OA No.140/2007 dated 08.11.2007 as upheld by the Hon'ble High Court of Delhi in WP (C) No.1688/2008 dated 14.01.2010 and the said A-2 order dated 06.08.2010 reads as under:-

“IMPLEMENTATION OF ORDER OF CAT (PB) IN OA 140/2007 AND HIGH COURT OF DELHI ORDER DATED 14TH JAN 2010 IN WP 1688/2008 : UOI & OTHERS Vs. SHRI MAHABIR SINGH GOSAIN AND OTHERS

1. Under the provisions of Govt. of India, Min. of Def letter No.46131/MSG/IMA/GS/MT-7/1032/SO(H)/D(GS-II) dated 26th July, 2010 received vide Integrated HQ of MoD (Army) letter No. 46131/MSG/IMA/GS/MT-7 dated 26th July, 2010, in compliance of CAT New Delhi judgment dated 08 November, 2007 and High Court New Delhi order dated 14th January, 2010, the following Demonstrators have been granted personal pay of Rs.2200-4000 (Revised pay scale of

Rs.8000-13500) wef 01.01.2002, in terms of para 5 of UGC letter No.7.1-3/86(P.S.) dated 08 October, 1992:-

- (a) TA-1114 Shri D.K. Pandey
- (b) TA-1130 Shri M.S. Gosain
- (c) TA-1139 Shri Ashok Kumar
- (d) TA-1150 Shri K.C. Dabral
- (e) TA-1151 Shri Y.K. Gupta
- (f) TS-1154 Shri Om Prakash
- (g) TA-1155 Shri Kamal Uniyal

2. The above named indls have further been placed in the revised pay of Rs.15600-39100 (+) 6000/- AGP (PB-3) wef 01 January, 2006”.

12. Heard Mrs. Meenu Mainee, learned counsel for the applicants and Shri Ashish Nischal for Shri Rajinder Nischal, learned counsel for the respondents and perused the pleadings on record.

13. Mrs. Meenu Mainee, learned counsel appearing for the applicants submits that as per the orders of this Tribunal in OA No.140/2007 dated 08.11.2007, the respondents were to grant the benefit of pay scale of Rs.2200-4000/Rs.8000-13,500 to the applicants with effect from the date on which they had completed 16 years of service counting from the date of their appointment. Accordingly, the applicants were entitled for the said pay scale from the years 1993 and 1994 respectively, since they were appointed in the years 1977 and 1978 respectively, but the respondents granted the said pay scale only with effect from 01.01.2002 as against the entitlement of the applicants, i.e., from 1993 and 1994 respectively.

14. Shri Ashish Nischal, learned counsel appearing for the respondents on the other hand submits that the pay fixation of the

applicants at Rs.1740/- w.e.f. 01.01.1986 in the scale of Rs.1740-3000 has been done in accordance with para 7 of Government of India, Ministry of Defence letter No.PC.47020/MISC/SMT-7/838/D/(Civ.I) dated 02.04.1993, as was done in the case of other teaching staff/Lecturers at Indian Military Academy. In view of the same, the pay of the applicants has been fixed correctly in the scale of Rs.1740-3000 with effect from 01.01.1986 and Personal Pay of Rs.2200-4000 (revised pay scale Rs.8000-13,500) with effect from 01.01.2002 on completion of 16 years of service in the pay scale of Rs.1740-3000. The learned counsel further submits that the applicants, who were appointed as Demonstrators and also retired as Demonstrators all the way, i.e., from the date of their first OA No.537/1989, were claiming benefits on par with the teaching staff of the respondent-Army Cadet College including granting of UGC pay scales and other financial benefits which were duly granted to them from time to time and even the subject scale was also granted to them on par with the teaching staff of the College only and hence now they cannot claim any additional benefit from any different date on any different lines.

15. The applicants have not filed any rejoinder in the OA denying the averments of the respondents.

16. It is not the case of the applicants that the pay scale of other teaching staff of the respondents-Army Cadet College was fixed in

the pay scale of Rs.2200-4000/Rs.8000-13,500 from any other date or any other different criteria other than the criteria applied to the applicants. Once the claim of the applicants commenced way back in the year 1989 on the analogy that they should be granted same benefits on par with the teaching staff of the respondent-College and once they were given all the benefits from time to time on par with the teaching staff of the college, now they cannot contend that any different criteria should be adopted to them. Hence, we do not find any illegality in the action of the respondents.

17. In the circumstances and for the aforesaid reasons, the OA is dismissed, being devoid of any merit. No costs.

(NITA CHOWDHURY)
Member (A)

(V. AJAY KUMAR)
Member (J)

RKS