

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. O.A. 813 of 2012

Date of order: 23.11.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

ANINDA ROYCHOUDHURY & ORS.

VS.

UNION OF INDIA & ORS. (Defence)

For the Applicants : Mr. N.P. Biswas, Counsel

For the Respondents : Ms. R. Basu, Counsel

O R D E R (Oral)

Per Mr. Justice G. Rajasuria, Judicial Member:

Heard both sides.

2. This O.A. has been filed seeking the following reliefs:-

"i) An order/direction do issue to cancel, withdraw and/or rescind the impugned order No. 3960/A/G dated 11.7.2008, issued by the Director /G, for Director General, Ordnance Factory Board, Kolkata, refusing to grant the increment based incentive for acquiring higher qualification and as contained at Annexure "A/8" to this application.

ii) To direct the respondent authorities and each of them to forthwith grant the benefit of three (3) advance increments to the applicants from the date they have become eligible in terms of the Ministry of Defence circular dated 4.2.69.

iii) To direct the respondent authorities and each of them to forthwith pass orders re-fixing the pay of the applicants after granting three (3) increments from the date of acquiring higher qualification and raising the pay in subsequent grades and pay scales in the manner it has been done in case of Shri Pulak Kr. Dutta, a similarly placed employee.

iv) To direct the respondents and each of them to revise the terminal benefits including Pension in respect of the applicants as necessary consequent upon grant of advance increments and re-fixation of pay.

v) To direct the respondent authorities and each of them to forthwith make payment of all arrears of pay and allowances and arrears of terminal benefits along with interest thereon.

vi) To direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for adjudication of the

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points at issue.

vii) and/or to pass such order or further order or orders and / or direction or directions as this Hon'ble Tribunal deem fit and proper.

viii) Leave may be granted to file this application under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987, having same cause of action."

3. Both sides made uniform representation regarding the factual scenario that emerged in a similar matter. In O.A. No. 327 of 2013 the Central Administrative Tribunal passed an order on 19.6.2014. The operative portion of the said order would run thus:-

"7. Having heard the learned counsel for both parties, we are of the opinion that the respondents have failed to make out a case that the applicants do not stand on the same footing as the said applicant Shri Pulak Kr. Dutta or the applicants in O.A. 755 of 1997, hence they would be entitled to the benefits at par with Pulak Kr. Dutta and the applicants in O.A. 755/97. In view of the fact that the applicants are already between 70-72 years in age, we direct the respondents to issue appropriate order granting benefits, after getting it approved by the Ministry of Defence if required, and in accordance with law after adjustment of lumpsum grant under 1993 Scheme, within 2 months positively. Necessary financial benefits be released within one month thereafter."

4. As against the said order Writ Petition was filed by the respondent department in WPCT No. 159 of 2015 and the relevant portion of which is extracted herein for ready reference:-

"3. In para 4 of its order the Tribunal recorded submissions made by advocate for the petitioners that the

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respondents' representation for granting the 1969 scheme benefits instead of the 1993 scheme lump sum grant benefits was under consideration of the Ministry of Defence.

4. But instead of asking the Ministry of Defence to give its decisions dealing with the respondents' respective representations claiming the 1969 scheme benefits, the Tribunal granted the respondents the benefits straight principally on the grounds that a similarly situated person had been granted similar benefit in an O.A. NO. 755 of 1997.

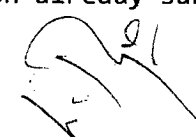
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6. Today Mr. Mal has submitted that he has received written instruction from the sixteen respondents that they have decided to seek leave of this court to withdraw the O.A. so that they may make appropriate fresh representations to the competent authority seeking the 1969 scheme benefits given to the other similarly situated persons. He had produced three letter signed by the sixteen respondents.

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8. After examining the facts and circumstances, especially the manner in which the Tribunal disposed of the O.A., we are of the opinion that the respondents should be granted leave to withdraw the O.A. so that they may make appropriate further representations in connection with their representations which were pending before the Ministry of Defence that was considering them even at the date of the Tribunal order."

5. The Ld. Counsel for the applicant would pray for a direction upon the Ministry to consider the representation already submitted



by the applicants and the Ld. Counsel for the respondents would submit that no representation from the applicants is necessary.

6. Hence, in this factual matrix, we would direct the concerned Ministry to consider the representation already submitted ^{by the applicants} and pass a reasoned and speaking order within a period of three months from the date of communication of this order.

7. The O.A. is, accordingly, disposed of. No costs.

(Jaya Das Gupta)
MEMBER(A)

(G. Rajasuria)
MEMBER(J)

SP