

LIBRARYCENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/134/2015

Date of order : 22.11.2017

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member**KANAI LAL BHADRA**S/o Late Deb Narayan Bhadra,
Working as TOI Engineer,
Stores Depot,
Under Commandant Engineer Stores,
Kankinara,
R/o Narua, Panchanantala,
PO & PS - Chandannagar,
Dist. - Hooghly,
Pin - 712136.

..APPLICANT

VERSUS

1. Union of India, through the
Secretary,
Ministry of Defence,
South Block,
New Delhi - 110001.
2. The Engineer in Chief,
Army Head Quarter,
Kashmir House,
DHQ,
New Delhi - 110001.
3. The Chief Engineer,
HQ Eastern Command,
Fort William,
Kolkata - 700021.
4. The Controller of Defence Accounts,
Rajendra Path,
Patna (Bihar),
Pin - 841226.
5. The AAO(Pay Cell)
13 Camac Street,
9th Floor,
Kolkata - 17.
6. The Commandant Engineer Stores,
Depot, Kankinara,
Po ESD (M), 24 Pgs (N)
Pin - 743124.

...RESPONDENTS.

7657

For the applicant : Mr.M.K.Sasmal. counsel

For the respondents: Mr.B.P.Manna, counsel

O R D E R

Ms.Jaya Das Gupta, A.M.

The applicant Sri Kanai Lal Bhadra has approached CAT under Section 19 of the Administrative Tribunals' Act, 1985 seeing the following reliefs :

- 8.(a) To issue appropriate necessary order to the effect that the pay scale which was granted to the applicant during his service be confirmed and disbursed;
- (b) To issue direction upon the respondents to pay and/or disburse the refixed pay order as per the Annexure A/14 of the instant applicant, immediately, with all arrears and interests therein without any unnecessary delay;
- (c) Costs incidental thereto;
- (d) Any other order r orders as the Hon'ble Tribunal may deem fit and proper

2. Heard both sides.

3. Regarding relief 8(a) we observe that the respondents have already passed orders as per the Tribunal's order dated 1.7.2008 in OA 426/2008. The relevant portion of the order dated 1.7.2008 passed by the Tribunal in OA 426/2008 is set out below :

"3. When the matter came up for hearing ld. Counsel for the applicant submits that if a direction is given to respondent No.3, The Chief Engineer, HQ Eastern Command to consider and dispose of the **representation dated 19.12.2007** keeping in mind the letter issued by the respondent authorities on **29.12.2007** (Annexure A/11) within a time frame, his client will be satisfied.

4. In the interest of justice we, therefore, direct that Respondent No.3 or any other competent authority shall consider and dispose of the representation dated 19.12.2007 keeping in view the letter dated 29.12.2007 issued by the Admn. Officer within a period of three months from the date of receipt of copy of this order and grant benefit of such promotion to the applicant as was given to similarly situated persons who are said to be junior to the applicant.

5. With the above direction the OA is disposed of accordingly. No costs."

The respondents have passed orders on 8.2.2011 regarding directions of the Tribunal. The relevant portion of the said order is set out below :

ESD Kankiunara
24 Pgs(N)
PIN - 743124.

HQ Eastern Command
PIN - 908542
C/O 99 APO
08 Feb 2011

PAY FIXATION ON PROMOTION

1. CTC of pay fixation proforma on promotion duly approved by CDA Patna vide their letter No. PA/1/1304/XVII dt. 06 Jan 2011 (copy enclosed) in respect of the under mentioned individual of your unit is enclosed herewith for your further action, please :-

Sl. No.	MES No., Name & Designation	Pay Fixed	WEF	DNI	Scale of pay
1	246944 Shri KL Bhadra, Tele Operator	Rs.5000/-	1.1.96	1.1.97	Rs.5000-8000/-
Rs.6200/-		26.12.03	NA	Rs.5500-9000/-	
Rs.6375/-		1.1.04	1.1.05	-do-	
Rs.16710/- (Rs.12510 + Rs.4200)		1.1.06	17.06	Rs.9300-34800/-	

PAT III

**PAY FIXATION ON IMPLEMENTATION
OF COURT ORDER AGAINST OA NO.426/08**

246944 Sh.K.L. T/O-Gde-I REF ESD KKA PTO NO.29/08/2009
DT 20 JUL 2009
STAGE - I

**PAY FIXATION ON 1ST FINANCIAL UPGRADATION
UNDER TIME BOUND PROMOTION SCHEME ON
COMPLETION OF 16 YEARS OF SERVICE.**

- 1.1.96 Consequent upon 1st financial upgradation under Time Bound Promotion Scheme Pay fixed @ Rs.5000 w.e.f. 1.1.96 in the pay scale of Rs.5000-150-8000/- with DNI 1.1.97.
- 1.1.97 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5000 to Rs.5150/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.98
- 1.1.98 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5150 to Rs.5300/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.99
- 1.1.99 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5300 to Rs.5450/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.2000
- 1.1.2K Gtd A/1 @ Rs.150/- pm raising pay from Rs.5450 to Rs.5600/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.01
- 1.1.01 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5600 to Rs.5750/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.02
- 1.1.02 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5700 to Rs.5900/- in the pay scale of Rs.5000-150-8000/- With DNI 1.1.03
- 1.1.03 Gtd A/1 @ Rs.150/- pm raising pay from Rs.5900 to

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Rs.6050/- in the pay scale of Rs.5000-150-8000/-
With DNI 1.1.04.

STAGE II

PAY FIXATION ON 2ND FINANCIAL UPGRADATION
UNDER TIME BOUND PROMOTION SCHEME ON
COMPLETION OF 26 YEARS OF SERVICE

- 26.12.03 Consequent upon 2nd financial upgradation under Time Bound Promotion Scheme Pay fixed @ Rs.6200 w.e.f. 26.12.2003 in the pay scale of Rs.5500-175-9000/- with DNI N.A.
- 1.1.04 Pay re-fixed @ Rs.6375/- w.e.f. 1.1.2004 on accrual of Next increment in the pay scale of Rs.5500-175-9000/- with DNI 1.1.2005
- 1.1.05 Gtd A/1 @ Rs.175/- pm raising pay from Rs.6375/- to Rs.6550/- in the pay scale of Rs. 5500-175-9000/- With DNI 1.1.2006.

STAGE III

PAY FIXATION UNDER CDS (RPR-2008)

- 1.1.06 Elected CDS (Revised Pay Rules 2008)
- 1.1.06 Pay fixed @ Rs.16710 (Pay Band Rs.12,510 + Grade Pay Rs.4200/-) in the PB-II of Rs.9300-34800 with Grade Pay Rs.4200/- with DNI 1.7.06.
- 1.7.06 Gtd A/1 @ 3% Rs.510/- pm raising pay from Rs.16710/- (Rs.12510/- + GP 4200/-) to Rs.17220 (Rs.13020 + GP 4200/-) in the PB-2 of Rs.9300-34800 + GP 4200/- with DNI 1.7.07
- 1.7.07 Gtd @ 3% Rs.520/- pm raising pay from Rs.17220/- (Rs.13030/- + GP 4200/-) to Rs.17740/- (Rs.13540/- + GP 4200/-) in the PB-2 of Rs.9300-34800 + GP 4200/- with DNI 1.7.08.
- 1.7.08 Gtd @ 3% Rs.540/- pm raising pay from Rs.17740/- (Rs.13540/- + GP 4200/-) to Rs.18280/- (Rs.14080/- + GP 4200/-) in the PB-2 of Rs.9300-34800 + GP 4200/- with DNI 1.7.09.
- 1.7.09 Gtd @ 3% Rs.550/- pm raising pay from Rs.18280/- (Rs.14080/- + GP 4200/-) to Rs.18830/- (Rs.14630/- + GP 4200/-) in the PB-2 of Rs.9300-34800 + GP 4200/- with DNI 1.7.10.
- 1.7.10 Gtd @ 3% Rs.570/- pm raising pay from Rs.18830/- (Rs.14630/- + GP 4200/-) to Rs.19400/- (Rs.15200/- + GP 4200/-) in the PB-2 of Rs.9300-34800 + GP 4200/- with DNI 1.7.11.
- Auth : CDA Patna letter No. PA/1/1304/XVII dt. 06 Jan 2011 and CE HQ EC Kolkata letter No. 131950/18/1039/Engrs/EIR(C) dt. 08 Feb 2011.

This supersedes all PTOs related with previous increments granted to the ind.

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Sd/-
 (Barun Das)
 AE E/M
 Offg Adm Officer
 For Commandant."

4. Regarding relief 8(b) we observe from the above that the arrears as calculated have been paid to the applicant vide communication dated 8.4.2015 in Annexure /10 which is set out below :

"6914/Misc/01/E5C

08 Apr 2015

Shri Kanai Lal Bhadra
 Narua, Panchanantala (North)
 PO : Chandannagar
 Distt : Hooghly
 West Bengal - 712136.

FORWARDING OF CHEQUE ON ACCOUNT OF REVISED PAY FIXATION

1. Please find enclosed here3with SBI Barrackpore crossed cheque bearing Machine No. 240558 dt. 08 Apr 2015 for **Rs.4,07,590/-** (Rupees four lakh seven thousand five hundred ninety only) on account of revised pay fixation and 1st & 2nd financial upgradation on time bound promotion scheme.
2. Please return the attached receipt duly stamped and signed for our audit and record at the earliest please.

Yours sincerely
 Sd/-
 (Vikram Singh)
 Colonel
 Offg Commandant."

It is also seen that such amount has been received by the applicant on 16.4.2015 as per Annexure R/11.

Therefore both relief 8(a) and 8(b) have been acceded to by the authorities.

5. Ld. Counsel for the applicant however, has submitted in the Court that on such arrears, interest should be paid as it is his contention that interest on such arrears have not been paid to the applicant. This is the relief he wants in the present OA.

However, from the relief asked for in the previous OA i.e. OA 426/2008 it is observed that the following reliefs have only been sought :

"8. In view of the above facts and circumstances the applicant prays for the following reliefs :

- a) To issue appropriate necessary order to the effect that the pay scale which was granted to the applicant during his service be confirmed;



- b) To issue direction upon the respondents to pay Rs.5000-8000 after 16 years of service and further to enhance the pay scale of Rs.5500-9000 after 26 years of service and grant ACP benefits forthwith;
- c) An order directing the respondents to grant all consequential benefits including arrears after re-fixation of his pay in terms of prayer (b) above;
- d) To extend the benefit of the order of the Hon'ble CAT, Calcutta Bench in OA 1166/2005 (Kartick Chandra Roy -vs- Union of India & Ors.) dated 13.6.2006 and OA 907/2005 (Jaydev Chakraborty -vs- Union of India & Ors.) dated 21.6.2006;
- e) Any other order or orders as the Ld. Tribunal deem fit and proper.

We also note, from the order passed by CAT in the case of the applicant in OA 426/2008 relevant paras of which have been set out above, it is observed that no interest had been agreed to by the Tribunal for the applicant Sri Kanai Lal Bhadra in the previous OA and he cannot seek interest at a later OA i.e. the preset OA as the principle of res judicate prohibits seeking of such reliefs in the later OA.

6. The applicant has also referred to the benefits given in OA 907/2005 (Jaydev Chakraborty) vide order dated 21.6.2006. However, on going through the reliefs asked for in that OA (Annexure A/5 pg 19 of the present OA) we find that no interest on arrears has been sought by the applicant, Sri Jaydev Chakraborty in that OA and accordingly no interest on arrears has been directed to be given in the final order as per para 9 in OA 907/2005.

Also in the case of Kartick Chandra Roy -vs- Union of India & ors. in OA 1166/2005 on which final order was given on 13.6.2006, it is observed that interest @ 12% has been sought by the applicant, Kartick Chandra Roy in the relief asked for in the OA 1166/2005. Therefore in the final order interest @ 6% has been awarded to Sri Kartick Chandra Roy.

As observed above in the present case relating to Shri Kanai Lal Bhadra no interest has been sought in OA 426/2008 and accordingly no interest was given. No interest can be given on fresh OA as it will be hit by the principle of Res Judicate.

7. Ld. Counsel for the applicant has submitted a citation, S.K.Dua -vs- State of Haryana & Anr. [2008(3) SCC 44] where the appellant had filed writ petition claiming interest on delayed payment. This was dismissed in limini by Hon'ble High Court giving him liberty to file Civil Suit.

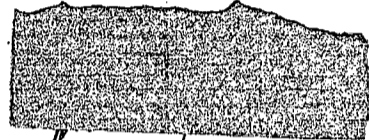


As the decision in each case varies from case to case the judgment of S.K. Dua cannot be taken as a judgment passed in rem as we are not aware whether Shri Dua had approached the Court under similar circumstances as the present applicant.

8. Therefore this OA lacks merit and hence is dismissed. No costs.



(JAYA DAS GUPTA)
ADMINISTRATIVE MEMBER



(BIDISHA BANERJEE)
JUDICIAL MEMBER

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