

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.660/2014

Date of Decision: 12.03.2019.

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri S.A. Shirsat, SSS
PA No.31980L, 32, MCU, Air Force,
Termina 1B, CSI Airport, Mumbai 400 099. ... ***Applicant***
(By Advocate Ms. Priyanka Mehndiratta)

VERSUS

1. Union of India, through
The Joint Defense Accounts Controller Air
Force, Subroto Park, New Delhi 110 010.
2. The Commanding Officer,
Air Force Accounts Office,
Subroto Park, New Delhi – 10.
3. The Commanding Officer,
32 MCU Air Force, Terminal IB,
CSI Airport, Mumbai 400 099. ... ***Respondents***
(By Advocate Shri V.B. Joshi with
Shri P. Khosla)

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard the learned counsels for the parties.

2. The Applicant who is stated to have joined the services of the respondents as Assistant Store Keeper on 20.12.1982 has approached this Tribunal by way of filing the present OA under Section 19 of the Administrative Tribunals Act, 1985 seeking

the following reliefs:

"8.a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same, direct the respondents to remove the anomaly in pay of the applicant w.r.t. the pay being drawn by his juniors since the year 1996 with consequential benefits.

8.b) The Hon'ble Tribunal may further be pleased to direct the respondents to step up the pay of the applicant at par with his juniors and pay the arrears of salary to the applicant.

8.c) The Hon'ble Tribunal may further be pleased to direct the respondents to pay the arrears along with interest at the rate of 18% per annum.

8.d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed.

8.e) Cost of the application is provided for."

3. It is not in dispute that the applicant has joined as Assistant Store Keeper on 20.12.1982 and he was promoted as Store Keeper on 25.05.1988 and as Store Superintendent on 14.11.1994. It is contended on behalf of the applicant that one Shri K.S. Jalgaonkar who has been junior to the applicant and who joined as Assistant Store Keeper on 16.01.1984 and was promoted as Store Keeper on 28.09.1990 and as Store Superintendent on 09.06.1995 has been getting higher pay than the applicant. The grievance of the applicant is that though

the said Shri Jalgaonkar has not only joined as Assistant Store Keeper subsequent to the applicant but was also ^{been} promoted to the further grades subsequent to the applicant. Learned counsel for the applicant argues that though the applicant has been senior to said Shri Jalgaonkar in all the three posts however, he has been getting lesser salary than his such junior and his case for removal of pay anomaly and grant of stepping up has been shuttling from one office to another during the last 18 years.

4. In response to the notice from this Tribunal, the respondents have filed the reply affidavit and in para 11.1 the respondents have submitted as under:

"...11.1 It is admitted that an application for stepping of pay was forwarded by 32 MCU AF vide their letter no.32 MCU/418/2/31980/PC dated 13.12.2013 which was returned by AFCAO for want of PFP, service document and other requisite paper. Same along with complete documents was forwarded to AFCAO on 21.02.2014 and same was returned unapproved on 02.04.2014 vide AFCAO/10380/116CPW/C-206 as the Option Certificate was submitted by the individual for 01.09.2005."

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5. From the aforesaid, it is evident that the respondents themselves have admitted that the proposal for stepping up of the pay of the applicant has been returned unapproved on account of the fact that the applicant has submitted Option Certificate on 01.09.2005. The learned counsel for the applicant has invited our attention to Office Memorandum dated 03.01.2013 (Annex.A-4) issued by the Government of India, Ministry of Finance, Department of Expenditure and para 2 and 3 thereof read as under;

"...2. This Ministry issued instructions vide this Department's OM No.10/2/2011-E-III A dated 19.3.2012, providing that those Central Government employees who were due to get their annual increment between February, 2006 to June, 2006 may be granted one increment on 1.1.2006 in the pie-revised pay scale as a onetime measure and, thereafter, they will get the next increment in the Revised Pay structure on 1.7.2006 as per Rule 10 of the CCS (RP) Rules 2008.

3. In view of the benefit extended to Central Government employees as per the aforesaid OM dated 19.3.2012, the issue relating to according of a fresh opportunity to Central Government employees to re-exercise their option to come over to the revised pay scale as per CCS(RP) Rules, 2008 was raised by the Staff side of the Joint Consultative Machinery in the meeting of the National Anomaly Committee held on 17.7.2012.

6. Para 5 of the aforesaid Office Memorandum dated 03.01.2013 provides that

the benefit under these orders for re-exercise of option shall be available for a period upto 31.03.2013 and a revised option shall be intimated to the head of office by the concerned Government employees in accordance with the provisions of Rule 6 (2) of the CCS (RP) Rules, 2008. Learned counsel further refers to the Circular dated 09.05.2014 (Annex. A-10) issued by the Air Headquarters, New Delhi and para 2 & 4 thereof reads as under;

"...2. Further, DoP&T guidelines on the subject clearly stipulate that the provision regarding "facility of exercising option within one month" should specifically be incorporated in the promotion/upgradation order, so that there are no cases of delay in exercising the options due to administrative lapse.

3.

4. In view of above, it has been decided that in future the provision regarding exercising of option under FR-22 should invariably be incorporated in the promotion/financial upgradation orders and the copies of orders of promotion/financial upgradation should necessarily be endorsed to concerned Govt. servant, by name.

7. On bare perusal of the provisions of Office Memorandum dated 03.01.2013, it is evident that the benefit under the said order for re-exercise of option had been available for a period upto 31.03.2013 and

the respondents have themselves emphasized the need of bringing to the notice of the employees concerned about the liberty to them to exercise such option. Once the period for exercising such option has been extended by the respondents themselves upto 31.03.2013, it is surprising to note as to how the respondents have returned the proposal for removal of anomaly and grant of stepping up to the applicant unapproved on 02.04.2014 in spite of noting the fact that the Option Certificate was submitted by the applicant on 01.09.2005. The aforesaid clearly indicates that the authority who has returned the proposal in respect of the applicant unapproved on 02.04.2014 has not taken into consideration the very OMs dated 03.01.2013 and also 09.05.2014, referred to above and therefore the inaction at the end of the respondents is result of non-application of mind.

8. In view of the aforesaid, the OA is partly allowed with direction to the respondents to consider the claim of the applicant qua removal of the anomalies in fixation of his pay and grant of stepping up

to the applicant keeping in view the higher pay being granted to and drawn by his junior Shri K.S. Jalgaonkar and also taking into account the provisions of OMs dated 03.01.2013 and 09.05.2014 and pass appropriate orders within eight weeks of receipt of a certified copy of this order.

9. In the aforesaid terms, the OA is disposed of. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.

6/4/13
Jd.

