

(7)

Central Administrative Tribunal
Principal Bench

O.A.No.328/2003

M.A.No.329/2003

Hon'ble Shri Shanker Raju, Member(J)
Hon'ble Shri S.K.Naik, Member(A)

New Delhi, this the 4th day of July, 2003

1. Mr. Kirpal Singh
MES No.7017139
House No.A-26
Anand Vihar
Near Ch. Chajuram Hospital
Uttam Nagar, Delhi.
 2. Mr. Dilbagh Singh
MES No.1506745
House No.WZ-35
Sant Nagar Extension
Tilak Nagar, Delhi.
(By Advocate: Sh. Neeraj Goyal) ... Applicants
- Vs.
1. Union of India through
The Secretary
Ministry of Defence
New Delhi - 110 001.
 2. The Engineer-in-Chief
Army Headquarters
Kashmir House
New Delhi - 110 001.
 3. The Chief Engineer
Western Command
Chandimandir
Chandigarh.
 4. The Chief Engineer
Delhi Zone
Delhi Cantt.
New Delhi - 110 010.
 5. The Commander Works Engineer (Utility)
Delhi Cantt.
New Delhi - 110 010.
 6. The Garrison Engineer (Utility)
Plant & Machinery
Delhi Cantt.
New Delhi - 110 010. ... Respondents
(By Advocate: Ms. Promila Safaya, proxy of Ms.
Harvinder Oberoi)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

MA 329/2003 for joining together is allowed.

2. Applicants have assailed respondents' order dated 24.1.2003 denying him extension of benefit

accorded in OA 1488/2000 being not a party. Quashment of the aforesaid impugned order has been sought with extension of benefit in so far as accord of pay scale Rs.260-400/- w.e.f. 1.1.1973 and pay scale of Rs.950-1500/- w.e.f. 1.1.1986 with all benefits including interest.

3. Applicant No.1, having served Indian Army from 1943 to 1970, was appointed as Lift Operator and superannuated on 1.8.1985. Applicant No.2 also superannuated on 1.4.1992.

4. Vide OM dated 16.11.1993, the Lift Operators' pay scale in CPWD was revised to Rs.260-400/- w.e.f. 1.1.1973 as well as in the scale of Rs.950-1500/- w.e.f. 1.1.1986. These instructions have ^{been} complied with by the respondents w.e.f. 27.1.1994 but the same were not granted to Lift Operator working under the MES.

5. Being aggrieved, another set of Lift Operators in MES filed OA 1488/2000 (Mr. Jatadhar Singh & Others v. Union of India & Others) before this Court. By an order dated 6.12.2000 respondents have been directed to take the matter in JCM, in review, by an order dated 1.6.2001, order was modified on 1.8.2001 directed for placement of the case before the Departmental Promotion Committee.

6. By an order dated 14.9.2001 order was implemented and pay scales were accorded. In another OA 838/1996, the same reliefs were granted to the similarly circumstanced. Applicants made a request to accord them the benefits which were denied, giving rise to the present OA..

7. Shri Neeraj Goyal, learned counsel for applicants, relying upon the following cases,

contended that if one is placed in similar circumstance and the Judgement in rem, it would not be justifiable to deny the benefit and extension of the benefits accorded in another OA, on the pretext of not being a party:

- 1) Amrit Berry v. Union of India & Others, 1975(4) SCC 714.
- 2) Smt. Prem Devi & Anr. v. Delhi Administration & Others, 1989 Suppl.2 SCC 330.

8. On the other hand, in their reply, respondents opposed the contentions and raised a preliminary objection of limitation, and also contended that as the decision of Tribunal in OA 1488/2000 is applicable to those who have filed the OA, the same cannot be accorded to the applicants..

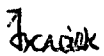
9. We have carefully considered the rival contentions of the parties and perused the material on record. Pay and Allowances being a continuing cause of action, limitation would have no application in the light of the decision of the Apex Court in M.R.Gupta v. Union of India & Others, 1995(5) SCC 628.


10. The Constitutional Bench of the Apex Court in K.C.Sharma v. Union of India, 1998(1) SLJ SC 54 held that for claiming extension of benefit of Judgement by a similarly circumstance, limitation would have no application.

11. In Smt. Prem Devi's case supra, the Apex Court has held that it would be injustice to take away from similarly circumstance the benefit of an earlier decision, on the pretext of not being a party as the same would have avoided unnecessary litigation and waste of time. In this view of the matter, the objection as to limitation is over ruled.

12. It is not disputed that the applicants are at par and identically situated with the applicants in OA 1488/2000 as such depriving them of the benefit allowed by the Government would be antithesis to equality enshrined under the Articles 14 and 16 of the Constitution of India..

13. In the result, for the foregoing reasons, OA is allowed. Impugned order is quashed and set aside. Respondents are directed to extend to the applicants, in accordance with rules and instructions and as per their entitlement, the pay scale as accorded to the similarly circumstance in OA 1488/2000 with all the consequential benefits, within a period of three months from the date of receipt of a copy of this order. However, the request for accord of interest is rejected. No costs.


(S.K.Naik)
Member(A)


(Shanker Raju)
Member(J)

/rao/
