

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.1084/2003

New Delhi, this the 30th day of April, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

ADR AFONSO  
Son of Late Shri Jose M. Afonso  
aged 57 years  
Assistant  
Naval Armament Depot,  
Goa.

...Applicant  
(By Advocates : Shri N.M. Popli with Ms. Seema Ranjan  
and Ms. Sanjukta Basu)

Versus

1. Union of India  
Through Defence Secretary,  
Ministry of Defence, South Block,  
New Delhi-110011.
2. The Chief of the Naval Staff  
Naval Headquarters, South Block,  
New Delhi-110011.

....Respondents

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN :

The applicant is working as Assistant in NAS Organisation. He is seeking parity with Assistants working in Armed Forces Headquarters in the matter of pay scale. The applicant is in the pay scale of Rs.5000-8000 whereas the Assistants working in Armed Forces Headquarters are in the pay scale of Rs.5500-9000.

2. By virtue of the present application, the applicant seeks the following reliefs:-

- "(i) issue notice;
- (ii) Convert 10% of the UDCs (i.e. UDC (S/G)) to the post of Assistant in the scale of pay of Rs.5500 to 9000 to settle the disparity between both the Assistants.

*ls Ag*

(3)

(2)

(iii) Post of Office Superintendents be retained or converted as ACSO;"

3. We have heard learned counsel for the applicant.

4. No person has indefeasible right to claim that certain number of posts should be created and a direction to this effect be given to the Government. Keeping in view the above observation, learned counsel does not press the said relief. He contends that the applicant is entitled to the pay scale of Rs.5500-9000 on the basis of principle of 'equal pay for equal work'.

5. In this regard, some of the facts required to be delineated. Earlier application has been preferred being OA No.2098/2002 by the applicant, which came up before this Tribunal on 9.8.2002. Similar relief was claimed and this Tribunal had dismissed the same. As against the decision of this Tribunal, the applicant preferred a Civil Writ Petition No.7693/2002. The Delhi High Court had passed the following orders:-

"Learned counsel for the petition on instructions prays for withdrawal of this petition for filing fresh OA before Tribunal. Dismissed as withdrawn with liberty prayed for granted. Any plea of limitation involved shall be decided in accordance with law."

6. It is in pursuance of the said order, the present application claiming the same relief has been filed.

18 Ag

(4)

7. Perusal of the facts narrated above clearly shows that in so far as the decision of this Tribunal in the earlier Original Application is concerned, the said order has not been set aside by the Delhi High Court. This Tribunal cannot go beyond the said order <sup>earlier</sup> passed <sup>^</sup> by this Tribunal. The present application would be barred by the doctrine of *res judicata*.

8. Resultantly, the OA must fail and is dismissed in limine.

Issue DASTI.

V.K. Majotra  
(V.K. MAJOTRA)  
MEMBER (A)

V.S. Aggarwal  
(V.S. AGGARWAL)  
CHAIRMAN

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