

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

OA/021/539/2015

HYDERABAD, this the 31st day of January, 2022

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B V Sudhakar, Admn. Member



P Shrinivas S/o. P.L.N. Sastry,
Aged about 51 years, working as Junior Scientific Officer,
Missile System Quality Assurance Agency, (MSQAA for short),
Defence Research Development Laboratory, Kanchan Bagh,
Hyderabad-500 058.

...Applicant.

(By Advocate: Mr. K Siva Reddy)

Vs.

1. The Union of India, rep. by
The Director General, Aeronautical Quality Assurance(DGAQA),
Ministry of Defence, Govt. of India, H Block, Udyog Bhavan,
New Delhi- 110 011.
2. The Principal Director,
Missile System Quality Assurance Agency, (MSQAA for short),
Defence Research Development Laboratory,
Kanchan Bagh, Hyderabad- 500 058.
3. The Controller General of Defence Accounts,
West Block-V, R.K. Puram, New Delhi-110 011.
4. The Controller of Defence Accounts(R&D),
Kanchan Bagh, Hyderabad- 500 058.
5. The Controller,
Controllerate of Defence Accounts,
No.1, Staff Road, Secunderabad- 500 003.
6. The Chief Resident Inspector,
O/o. Director General Aeronautical Quality Assurance,
Ministry of Defence, Govt. of India,
HAL Post Office, Hyderabad- 500 042.

... Respondents.

(By Advocate: Mr. M Venkata Swamy, Addl. CGSC).

ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

Through Video Conferencing:



This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“a) to call for the records pertaining to the clarifications/instructions issued by the 1st Respondent vide Order F.No.3523/Pay/Ser/Gaz/DGAQA/Adm-I, dt. 12.09.2013 and take cognizance of the inaction on the part of the Respondents to implement the said instructions contained in the above order, declaring the same as arbitrary, illegal, unwarranted, misconceived and in violation of Articles 14 & 16 of the Constitution of India;

b) to direct the Respondents to consider the case of the applicant for rectification of anomaly that arose entirely due to erroneous pay fixation on the part of the Respondents and not attributable to the applicant as observed by the 1st Respondent, duly directing the Respondents to grant the consequential benefits of re-fixation of pay, with arrears of pay arrears, increments, along with interest for the difference of pay and allowances at the rate of 24% which were denied for no fault of the applicant; with all consequential benefits; and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

2. The brief facts of the case are that the applicant was initially appointed As Senior Scientific Assistant(SSA)(Lower Scale) in the Group C(Non-Gazetted) post in the scale of Rs.6,500-200-10,500/-. After rendering requisite number of years of service, the official was granted placement to the next scale of Rs.7450-225-11,500/- as Senior Scientific Assistant(SSA)(Higher Scale), which is a Group B Gazetted post. On the recommendations of the 6th Pay Commission, the scales of Pay of both SSA(HS) and SSA(LS) got merged into Grade pay of Rs.4600/-. On completion of requisite service, the applicant was



placed in the SSA(Higher Scale) in the scale of Rs.7450-225-11500 with retrospective effect from 30.10.2004. The applicant opted to fix his pay in the manner as provided under FR-22(1)(a)(2) on the date of accrual of next increment in the scale of pay of the lower post. The applicant had also opted for fixation of his pay as on 01.04.2005 at Rs.8800/-. His next increment pay was also fixed as Rs.9025/- as on 01.04.2006. It is further submitted that the pay fixation proposed by the 4th Respondent at Rs.8575 w.e.f. 30.10.2004; with DNI from October, 2005 was resulting in lesser pay than that of already drawn in the lower scale. Further the annual increment is also denied for one year and six months, which is in violation of FR-24. Aggrieved of this, the applicant made representation to 1st and 5th respondents. The 5th respondent has raised certain objections with regard to the retrospective dates of placement granting Higher Scale w.e.f. 30.10.2004. The 5th respondent has come to a decision that the placement of the applicant in the higher scale of Rs.8,575/- instead of Rs.8,800/- and advised the 6th respondent to take up the matter with 1st respondent to recover the excess amount of pay and allowances immediately from the applicant's pay bill for August, 2008. The 1st respondent examined the matter and vide letter dt. 14.11.2008, declared that the pay fixation proposal of the applicant is approved by CDA was correct and there is no need to initiate action for recovery from the individual. Even after the above clarifications, the pay fixation and annual increment of the applicant for July 2009 were not granted. He made several representations for which there was no response. The applicant further submitted that the applicant was

denied the increment on 1st April, 2005 due to postponement of increment to 1st October, 2005. Ultimately, the 1st Respondent has given instructions to the 2nd Respondent to take up the issue with the concerned CDA(Controllor of Defence Accounts) for correcting the pay fixation of the applicant but there was no further action in this regard. Feeling aggrieved by this, the applicant has approached this Tribunal for redressal of his grievances.



3. Notices were issued. The respondents have filed reply. In the reply, the respondents have stated as below:

10. The applicant is on the posted strength of MSQAA, Hyderabad w.e.f. 05.04.2012. On reporting to MSQAA, Hyderabad, the applicant's case was taken up with CDA(R&D), Hyderabad alongwith Pay fixation proposals vide MSQAA letter No.MSQA/10630 dt. 01.10.2013 supported by the guidelines by HQrs DGAQA letter No.F.No./3523/Pay/Ser/Gaz/DGAQA/Adm-I dt.12.09.2012(Annexure-D) for reconsideration as MSQAA, Hyderabad is within the audit jurisdiction of CDA(R&D), Hyderabad. CDA(R&D), Hyderabad has returned the proposals vide their letter No. Pay-I/MSQAA/CDA(R&D)/SB dt.12.03.2014(Annexure-E), the reasons for which are reproduced here under:

- a) The Xerox copies of the correspondence in support of your contention i.e. approved and reversed reflected in Para 2 of your letter may please be furnished.
- b) As per the records submitted, the applicant had opted and his pay was fixed 9 years back as per the option and revised proposal could have not been initiated on the plea that the Government servant is loosing the financial benefit consequent on implementation of VI CPC.
- c) It is not the contention of this office as reflected in Para 4 of above referred letter and it is the decision No.17 of GOI reflected under FR 22 meant for pay fixation.

11. MSQAA, Hyderabad(R-2) has resubmitted the case replying to the points raised by CDA(R&D), Hyderabad as mentioned in Para 7(a),(b) & (c) and continuously being monitored early decision on the matter. CDA(R&D), Hyderabad has been last remaindered on 22 Jun 2015.

As the matter is under consideration with CDA(R&D), Hyderabad, this OA by the applicant is premature at this stage. It is therefore prayed that the Hon'ble Tribunal may be pleased to dispose the OA accordingly and pass such order or orders as this Hon'ble Tribunal deem fit and proper in the circumstances of the case."

4. Heard the counsel for the parties.

5. The short issue involved in the present original application is that a decision has to be taken by the Respondent No.4 which is pending since 2015. The applicant is aggrieved by getting lesser pay of one increment on grant of higher post. The learned counsel for the respondents submitted that they have received some instructions. In view of this, we direct the Respondent No.4 to form a view and take a decision in accordance with rule position and law, preferable within a period of two months from the date of receipt of certified copy of this order and communicate the same to the applicant. It is also made clear that we have not gone into the merits of the case.

6. With the above direction, the OA is disposed of. No order as to costs.



(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/Ram./