

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Writ Petition No. : 23178 of 2019(O&M)
Date of decision : September 17, 2019**

Union of India and others

...Petitioners

Versus

Harbans Lal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Anil Chawla, Senior Panel Counsel for
the petitioner – Union of India.

Harinder Singh Sidhu, J. :

1. This writ petition has been filed against the order dated 13.01.2014 (Annexure P-3) of the Central Administrative Tribunal, Chandigarh Bench, whereby Original Application No.1269/PB/2013 filed by the private respondents was disposed of in the same terms as OA No.34/2008 titled “Ram Kumar and others vs. Union of India and another” decided on 05.11.2009 by the Jodhpur Bench of the Central Administrative Tribunal. Also impugned are the orders dated 17.7.2015 and 24.04.2017 of the Tribunal whereby the applications for review and modification/clarification of the order dated 13.01.2014 filed by the petitioners were dismissed.

2. The private respondents (except No.32 to 33 who had retired), were working as CSBO Grade-II, CSBO Grade-I, etc. (Group-C employees)

in the Ministry of Defence. They were civilian employees. Their pay scales were revised w.e.f. 01.01.1996 and were further revised w.e.f. 01.01.2006. However instead of revised Night Duty Allowance (NDA) they were being paid NDA at the rates applicable prior to 01.01.1996. They filed the Original Application seeking directions to the petitioners herein to grant them revised NDA w.e.f. 01.01.1996 with all consequential benefits. They relied on the decision of the Jodhpur Bench of the Central Administrative Tribunal in Ram Kumar's case (supra).

3. Taking note of the fact that the relief claimed by them was similar to that claimed by the applicants in OA No.34/2008 and that even in the written statement it had been admitted that in order to implement the order of the Jodhpur Bench of the Central Administrative Tribunal necessary action to consider enhancement of NDA to all categories of defence employees was in progress under the Ministry of Defence, the OA was disposed of in the same terms as OA No.34/2008 (Ram Kumar's case).

4. The petitioners filed CWP No.18184 of 2014 titled as "Union of India and others vs. Harbans Lal and others" against the order dated 13.01.2014 which was disposed of vide order dated 04.09.2014 giving them liberty to file a Review Application before the Tribunal.

5. The petitioners filed Review Application No.060/00129/2014. At the time of hearing of Review application their counsel produced copy of letter/ communication dated 08.05.2015. He stated that during the pendency of the Review application the authorities themselves had decided to extend the benefit as granted by the Tribunal. In view thereof the

Review application was disposed of.

6. The petitioners then filed Miscellaneous Application No.060/01178/2016 and No.060/00601/2017 seeking clarification of the order dated 13.01.2014 for restricting the payment of arrears of NDA to one year or 18 months prior to the date of filing of the OA. These applications were dismissed as being not maintainable in view of the fact that the Review application had already been dismissed by the Tribunal.

7. Learned counsel for the petitioners has pointed out that while in its order dated 05.11.2009 in Ram Kumar's case, the Jodhpur Bench of the Tribunal had directed that the applicants were entitled to the arrears as applicable to them from April 2007 on the basis of actual pay thus arrived at without any interest. However, the order was subsequently reviewed vide order dated 09.04.2010 and the aforesaid direction was modified to read that the applicants are entitled to such arrears based on the actual pay till March, 2007 also.

8. It is not in dispute and is even reflected in the communication dated 8.05.2015 of the Ministry of Defence that the judgment of the Jodhpur Bench of the Tribunal in Ram Kumar's case has attained finality. CWP No. 9927 of 2010 filed against it was dismissed by the Rajasthan High Court on 1st August, 2011. SLP No.8276/2012 was dismissed by Hon'ble Supreme Court on 8th May, 2012. The writ petition and the SLP have been decided after the order dated 09.04.2010 of the Jodhpur Bench Tribunal passed in the review application. It is not the case of the petitioners that the order dated 09.04.2010 has been reversed or set aside.

9. There we find no illegality or infirmity in the order of the Tribunal.
10. This petition is dismissed.

(**RAJIV SHARMA**) (**HARINDER SINGH SIDHU**)
JUDGE JUDGE

September 17, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No