

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

23.

O. A. No. 194 of 2010

Lt. Col. S. V. Murthy

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. K. Ramesh, Advocate.

For respondents: Captain Alifa Akbar

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
10.3.2011

1. The petitioner, by this petition has prayed that the respondents may quash and set aside the IHQ – MOD i. e. Integrated Headquarter and Ministry of Defence (Army) letter dated 22.9.2009 read with Ministry of Defence letter dated 18.7.2005 being ultra vires to Article 14 of the Constitution of India. He has also prayed that a direction may be given for grant of technical pay from 1.8.1997 to 31.1.2005 as also refixation and grant of revised difference in pension to include the technical pay from 1.2.2005 till date with interest and adequate compensation for humiliation and untold suffering.

2. The petitioner was appointed as Direct Entry Junior Commissioned Officer in the rank of Naib Subedar on 13.3.1969. He was promoted to the rank of Subedar in 1976. After having a three year Diploma in Engineering from a recognized

Govt./Civil Institution and he applied for grant of permanent commission and he was granted the aforesaid commission on 25.7.1983 and thereby became a Technical Officer. He was posted as Assistant Executive Engineer (AEE B/R). Subsequently, on 26.11.2001, a Gazette of India Notification was promulgated, where it was held that Technical Officers would be granted technical pay @ Rs.1,000/- per month w.e.f. 1.8.1997. The petitioner also applied for the same, which was refused on 14.2.2002 on the specific plea that it is available to Graduates in Engineering and not to three years' Diploma Holders. Therefore, the petitioner filed the present petition challenging the aforesaid policy and denial of a sum of Rs.1,000/- per month as technical pay/allowance when the persons similarly situated are getting the same.

3. Reply has been filed by the respondents and they have taken position that since grant of Rs.1,000/- per month as allowance was given to the Technical Officers who had requisite qualifications. The provisions of the said notification read as under:-

TIER – 1 (Rs.1,000/- per month)

1. Graduate Degree in Engineering B. E. Tech from a recognized University in India or IIT/REC/BITS.
2. M. Sc. (Physics with Electronics) or any other qualification eligible for commission into Army as Technical Graduate.
3. Degree Engineering course from CME Pune/MCTE Mhow/MCEME Secunderabad.
4. AMIS (Passed Section A & B).

But the petitioner was not having any of these qualifications. Therefore, he was not given the benefit of Rs.1,000/- as technical allowance.

4. We have heard learned counsel for the parties and perused the record.

5. Learned counsel for the petitioner submitted that the petitioner is also entitled to technical pay @ Rs.1,000/- per month on the basis of principle of 'Equal pay for equal work' as the persons similarly situated are getting the same.

6. It is regretted that the principle upon which the petitioner is banking is not applicable in the present case. Technical allowance of Rs.1,000/- per month is admissible to the persons who have higher academic qualifications, as mentioned above. Though the petitioner may be an Assistant Executive Engineer but he does not have higher academic excellence in view of the degrees mentioned in the policy letter dated 24.11.2001, therefore, he forms a different class, discrimination should be among same class.

7. We do not find any merit in this petition. The petition is accordingly dismissed. No orders as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
March 10, 2011