**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application under Section 19 of the Administrative Tribunal Act, 1985.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :-

1. Particulars of the Applicant :

As given in the Memo of Parties.

2. Particulars of the Respondents :

As given in the Memo of Parties.

3 Particulars of orders against which this application is made :

That the applicant is directing this application against the impugned action of the respondents whereby they have not granted the benefits of pay fixation to the applicant properly and have not granted the benefits of proficiency increments etc and have not granted benefits under "Assured Career Progression Scheme" which has resulted in pay of the applicant being fixed at less than his juniors.

4. Jurisdiction of Tribunal :

That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal and it is competent to issue the directions to the respondents for full compliance.

5. Limitation :

That the applicant further declares that the application is within the limitation period as prescribed in Section 21 of the Administrative Tribunals Act 1985.

6. Facts of the Case :

6.1 That the applicant submits that he served in the \_\_\_\_\_\_Indian Army from \_\_\_\_\_ to \_\_\_\_\_ for a period of \_\_\_\_\_\_ years.

6.2 That on discharge from the Military service the applicant was appointed in the respondent department against the post reserved for Ex-serviceman on \_\_\_\_\_\_\_ as the applicant possessed the requisite qualification.

6.3 That the applicant is entitled for fixation of Seniority and pay in terms of Rule 5 of the Demobilised Armed Forces Personnel (Reservation of Vacancies in the Himachal State non-Technical Services) Rules, 1972 as amended from time to time. As per the Rule 5, the whole period of approved military service rendered after attaining the minimum age prescribed for appointment to the service concerned by the candidates appointed against reserved vacancies shall count towards fixation of pay and seniority. The object behind these provisions are to compensate an ex-serviceman for the services rendered by him for the sake of nation on the assumptions that they joined the service or the post, as the case may be, under the State Govt at the first opportunity they had after they joined the military service. The above Rules have overriding effect and are statutory in nature.

6.4 That the seniority to the applicant has rightly been granted in asmuch as the notional year of the seniority assigned to the applicant is \_\_\_\_\_\_\_ but the pay of the applicant has not been fixed in accordance with the spirit and objective of these Rules, in asmuch as the persons junior to the applicant in the seniority list are drawing more pay than the applicant.

6.5 That the applicant made a representation on \_\_\_\_\_\_\_ to the respondent department. However, despite this the pay of the applicant has not re-fixed so as to curb the anomaly in the pay being drawn by the applicant viz-a-viz his juniors. The proficiency increments falling due to the applicant has not been given and the benefits under the "Assured Career Progression Schemes" have not been granted to the applicant.

6.6 \_\_\_\_\_\_\_

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice: -

(a) Direct the respondents to grant all the benefits to the applicant admissible under the Rules;

(b) Direct the respondents to re-fix the pay of the applicant at par with the juniors by granting proficiency increments and benefits under the Assured Career Scheme and pay the arrears thereof to the applicant alongwith interest thereon @ 18% pa;

(c) Direct the respondents to produce all the relevant records of the case alongwith their reply for perusal by this Hon'ble Court;

(d) Allow the cost of this OA;

(e) Such other orders be also passed in favour of the Applicant as deemed fit and proper by this Hon'ble Tribunal in the facts and circumstances of the case.

8. Interim Orders, if Prayed for:

At present no interim orders are prayed for.

9. Details of Remedies Exhausted:

That the applicant submits that there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal matter being of urgent nature.

10. Matter Not Pending With Any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble Tribunal.

11. Particulars of Court Fees:

Court Fees worth Rs. 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

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Affidavit in support of Application under Section 19 of the Administrative Tribunal Act, 1985.

I,\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying OA has been drafted under my instructions.

2. That the contents of paras 1 to 12 of the OA are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true, no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

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Shimla Applicant

\_\_\_\_\_\_ Through, Advocate