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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1953/2001

New Delhi, this the 4th day of September, 2002.

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

Jag Mohan Sahni S/O Late Duni Chand Sahni,
R/O 169, Dharamkunj Apartments,
Sector-9, Rohini,
Delhi-110085. ... Applicant

(By Mrs. Avnish Ahlawat, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
New Delhi-110011.
2. Commodore,
Director Civilian Personnel,
Directorate of Civilian,
Sena Bhawan,
New Delhi-110011. ... Respondents

(By Shri A.K.Bhardwaj, Advocate)

O R D E R (ORAL)

Shri V.K.Majotra, Member (A) :

The present application seeks payment of difference of arrears from 1.12.1995 to 10.5.1999 in the grade of Senior Naval Stores Officer (SNSO). Such arrears have been denied to applicant on the basis of letter dated 6.5.1999 (Annexure-C) whereby applicant has been promoted as SNSO w.e.f. 19.10.1992 treating his promotion from 1.12.1995 till he assumed charge of the higher post as notional promotion. Applicant's representation against Annexure-C was rejected vide Annexure-A dated 3.2.2000, allegedly without assigning any reasons. Similarly, his appeal against Annexure-A was also rejected vide Annexure-B dated 16.8.2000, again, allegedly without assigning any reasons.

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2. Applicant was recruited as NSO through UPSC. He joined on 9.6.1979. He was promoted on regular basis to the post of SNSO from 19.10.1992. The promotion is stated to be on regular basis on selection by a duly constituted DPC. Vide Annexure-D dated 1.12.1995 applicant was reverted to the post of NSO pursuant to this Tribunal's judgment in O.A. No.128/1987 on the basis of a review DPC for the post of SNSO for the years 1987 onwards as along with one other, applicant was not recommended in the revised panel.

3. The learned counsel of applicant pleaded that applicant's reversion in 1995 was caused due to faulty conduct of review DPC in 1995. The mistake was realised by respondents on 6.5.1999 and fresh orders of promotion of applicant w.e.f. 19.10.1992, i.e., the earlier date of promotion, were issued. However, applicant has been denied the difference of arrears of pay and allowances from 1.12.1995 to 11.5.1999, i.e., the period during which he remained reverted. The learned counsel relied upon Union of India v. K.V.Jankiraman, 1991(2) SCALE 423 SC stating that while applicant had already drawn pay and allowances as he worked on the post of SNSO during 19.10.1992 to 30.11.1995 when he was illegally reverted w.e.f. 1.12.1995; he was reverted due to an administrative fault though he was willing to function.

4. On the other hand, the learned counsel of respondents stated that Bombay Bench of this Tribunal in O.A. No.128/1987 filed by S/Shri S.J.Ram and D.K. Chitgopkar, had directed the respondents to revise the seniority list of NSOs. Such seniority

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necessitated conduct of a review DPC which did not recommend empanelment of the applicant for the post of SNSO. Consequently applicant was reverted. The learned counsel of respondents stated that the ratio in the matter of Jankiraman (supra) does not apply to the facts of the present case as that is relevant only for^a case where the officer is under cloud and the sealed cover procedure has been followed. The learned counsel stated that in the instant case, applicant had been re-promoted after review DPC and no sealed cover procedure was followed and as such, he is not entitled to arrears of pay and allowances.

5. Under normal circumstances, as per provisions of FR-17(1), "An officer begins to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties". Although in the matter of Jankiraman (supra) promotion had been withheld on account of disciplinary/criminal proceedings pending against the employee where on exoneration he was given benefit of emoluments of the higher post from the date from which he would have normally been promoted but for disciplinary/criminal proceedings, it implied that the benefit denied on account of administrative action/fault should be granted on realisation of the mistake. In the present case, applicant has been re-promoted to the post of SNSO with effect from the original date, i.e. 19.10.1992, however, he has been denied the benefit of higher pay and allowances during the



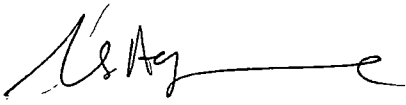
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period he remained reverted. When, ultimately, respondents re-promoted applicant with effect from the original date of his earlier promotion, the present case acquires the nature of a corollary to the case of Jankiraman (supra), and in the peculiar facts and circumstances of this case, the benefit of pay and allowances right from the date of earlier promotion, i.e., 19.10.1992 cannot be denied to applicant.

6. Having regard to the discussion made above, Annexures-A and B are set aside and Annexure-C dated 6.5.1999 is partially quashed with consequential benefits holding applicant entitled to difference of arrears of pay and allowances from 1.12.1995 to 11.5.1999 on the post of SNSO, with interest at the rate of 9 per cent per annum. Respondents are directed to pass appropriate order and pay up the arrears to applicant expeditiously and preferably within a period of two months from the date of communication of these orders. No costs.

Announced.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

/as/