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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2458/2001

New Delhi this the 18th day of April, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Shri A.K.Jain
Jr.Engineer, PWD, Div.No.18 (D/S)
9th Floor, MSO Building, I.P.Estate
New Delhi. Applicant

(By Advocate Shri Sohan Lal)

-versus-

1. Union of India
Through its Secretary
Ministry of Urban Affairs &
Poverty Alleviation, GOI
Nirman Bhawan, New Delhi.
2. The Director General of Works
Central Public Works Deptt.
Nirman Bhawan, New Delhi.
3. The Executive Engineer, PWD
Div.1No.18(D/S)
9th Floor, MSO Bldg., I.P.Estate
New Delhi.
4. The Executive Engineer, Agra
Central Division, Central Public
Works Department, Agra
Block No.63/4, Kendralaya Sanjay Place
Agra-282002. ... Respondents

(By Shri Ram Kumar, Advocate)

O R D E R (ORAL)

S.A.T.Rizvi:-

Applicant, a Junior Engineer in the CPWD, has been placed in the revised pay scale of Rs.1640-2900 with effect from 1.1.1986. After his pay was fixed, he was granted next increment with effect from 1.2.1986 (Annexure P-4). The aforesaid next increment was granted from the said date on the basis that his next increment was due from the

same date in accordance with the old scale of pay. However, by a letter issued on 14.3.2001 (Annexure P-1), orders were issued for recovering a sum of Rs.22,301 from the applicant on the ground that his pay had been wrongly fixed and the same needed to be refixed in accordance with the audit para (Annexure P-6). In accordance with the said audit para, the applicant's pay was fixed at Rs.1640 being the minimum of the pay scale as on 1.1.1986 and the next increment was shown to have become due on 1.1.1987. Aggrieved by the aforesaid fixation of his pay in accordance with the aforesaid audit para, the applicant has filed the present OA. The learned counsel appearing on behalf of the applicant places reliance on a judgement of the Supreme Court in Civil Appeal No.6717 of 1995 (Annexure P-10) wherein a similar case was considered and in their order of 18.3.1999, the Supreme Court has laid down that in such a situation, the next increment would become due from the date of next increment in the old scale. By relying on the same judgement of the Supreme Court, this Tribunal in their order dated 29.9.2000 passed in OA No.03/2000 has directed fixation of pay of the applicant in that case on the same basis. The learned counsel appearing on behalf of the respondents has pointed out that instructions existed to the effect that in a situation like the present, the next increment will become due only one year after 1.1.1986 and not from the date the next increment in the old pay scale.

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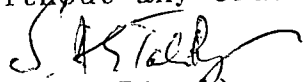
2. We have considered the aforesaid submissions made by the learned counsel and find that the Supreme Court in their aforesaid order dated 18.3.1999 have already dealt with the ^{applicability} ~~existence~~ of instructions in existence in the manner pointed out by the learned counsel for the respondents. The court in that case clearly held that "the office memorandum to the contrary was held to be incorrect and it was made clear that officers similarly placed as appellant could be entitled to get the first increment in the new scale of the pay due in the old scale". In this view of the matter there is no substance in the plea raised by the learned counsel appearing on behalf of the respondents.

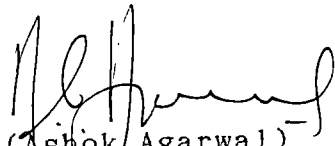
3. The learned counsel appearing on behalf of the applicant has next pointed out that the date of annual increment has been shifted further from 1.2.1986 to 1.3.1986 on the ground of strike in which he was alleged to have participated. The applicant had not participated in the strike and, therefore, the question of shifting of his increment date in the manner carried out by the respondents would not arise. He was in fact during the period in question on medical leave and this contention is accepted by the respondents. Having regard to this, we find that the date of his next increment will continue to be 1.2.1986 and all the consequential reliefs should be given to him by holding that the date of his next increment was 1.2.1986.

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4. In the light of the foregoing, we find substance and merit in the applicant's claim and set aside the impugned letters dated 14.3.2001, 8.8.2001 and 6.11.2001 relating to the recovery of excess amount. The learned counsel for the respondents points out that in view of the interim order passed on 19.9.2001, no recovery has been made from the applicant. In the circumstances, the respondents are directed to pay all the consequential benefits to the applicant.

5. OA is disposed of in the aforestated terms without any order as to costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

/sns/