

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO.2548/2001

NEW DELHI THIS 23rd DAY OF JULY, 2003

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Sh.K.P.Suhag
Govt.Girls Sr.Secondary School,
Ashok Nagar, New Delhi-18.

.....Applicant

(By Advocate: Shri B.N.Bhargava)

VERSUS

1. Govt. of N.C.T.Delhi,
through The Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. The Commissioner (Admn),
Sale Tax, I.T.O.
Delhi.
3. I.G.(Prison),
Tihar Jail,
New Delhi.
4. Dy.Director of Education (Distt West),
New Moti Nagar,
Karampura,
New Delhi.

.....Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R

Applicant in this OA (Shri S.K.Suhag) is before me seeking that he be granted arrears of pay and allowances, which have not been released to him in time, :

2. Shri B.N.Bhargava argued the case of the applicant and Shri Ajesh Luthra of the respondents.
3. The applicant born on 01.7.1967, joined DASS Grade-II on 26.10.90. From 16.5.91 to 4.4.97 he worked with Sale Tax Department in the same scale whereafter he posted to Tihar Jail. Though he was promoted and

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posted to Department of Education on 30.9.97, he was relieved to join the new assignment only on 3.3.98, where he was given fixation from 4.3.98 and notional promotion from 30.9.97. A number of representations were filed by him from 16.2.2000 onwards, with timely reminders, including up to the Lt.Governor but they were of no avail. His promotional pay was delayed, though the delayed relief ^{for promotion} was squarely on the respondents. In fact he had not been given his annual increments since 26.10.91 to 30.9.97, on the ground that his Service Book was not available, which again was not his responsibility. Respondents have been attempting to fix the responsibility elsewhere, forcing the applicant to come to the Tribunal. He argues that merely on account of the absence of his Service Book, *he should not have been* denied his pay and allowances. He was entitled for drawal of his pay and allowances from the date of his promotion and not from the date of his joining as the delayed relief was the responsibility of the respondents. Getting pay and allowances and timely increments were the rights of an employee, which cannot be denied. In view of the above the applicant seeks Tribunal's intervention to ensure that he is granted the annual increments from 26.10.91 to 30.9.97, as well as difference of pay from 30.9.97 to 4.3.98 alongwith interest @ 24%.

4. In their reply, Respondent No.2 - Sale Tax Department - states that from 1993 to 1998, they had been moving the Education Department to procure the Service Book of the applicant and after obtaining the same, they allowed the annual increments from 1991 to 1997, and transferred the same to Tihar Central Jail. They were not aware of the contents of the

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representations described to have been sent by the applicant to other Department. According to them, the applicant's increments have been allowed for the period he worked with them.

5. Respondent No.3 - Central Jail, Tihar aver that the applicant was in their service from April 1997 to March 1998 and he was relieved on promotion to join Education Department. He was given also notional promotion on 30.9.1997 and nothing further remained to be done by them.

6. Somewhat similar is the version of Respondent No.4 - Education Department - who says that it was the duty of the Deptt. where he worked earlier to grant him timely increments and attempts have been made in that direction by them also. However, after obtaining certain particulars his increment from 17.5.91 to 3.3.98 had been worked out an amount of Rs.28460/- had been given to him on 19.11.2001. They further state that as far as his pay and allowances, after ^{he} joined the Department of Education/GGSS School, Ashok Nagar, he was given the salary but if there was any further delay, he should blame himself, as he was the DDO. Thus according to the respondents, nothing further remained to be done. Shri Ajesh Luthra, reiterated the above.

7. In his submissions, Shri Bhargava pointed out that he had received only Rs.26460/- on 5.12.2001 and not Rs.28460/- sanctioned on 19.11.2001. He also relied upon the decision of the Hon'ble Supreme Court in the case of Food Corporation of India v. S.N.Nagarkar JT 2002 (1) SC 443 to show that he was entitled to the pay of promotional post from the date of promotion and not from the date of his joining.

8. I have carefully considered the case and I am convinced that the applicant has a case. He has two grievances - first that his annual increments had not been drawn from 1991 to 1997 on the pretext that his Service Book was not traceable. His having been made to shift from one Department to another, his Service Book should also have been transferred, but someone down the road had slipped, resulting in the non-drawal of the increments. However, what has not taken place over the years, had occurred once the OA was filed and his dues on account of the annual increments from 1991 to 1997 had been paid on 5.12.2001, but after holding back Rs.2000/- for no reason. So this grievance is met but for the delay caused in the disbursement the applicant should be compensated by way of interest.

9. Regarding the second grievances, it is settled law that the employee is entitled to higher pay and allowances on promotion, unless he had got the promotion postponed from the date of promotion and not from the date of his joining. Hence the applicant's promotion came on 30.9.97 but the relief was permitted only on 3.3.98. Delay was not caused by the applicant and the applicant is correctly entitled to get pay and allowances worked out from 30.9.97 and not 3.4.1998. Arrears also should be granted as pointed out in Food Corporation of India's case referred (supra).

10. Learned counsel for the respondents was at considerable pains to show that the respondents were not at fault but in the circumstances of the case, I cannot convince myself that they had discharged their duties as was expected of them.

11. In the circumstances, OA succeeds and is allowed. As the increments from 1991 - 1997 have been paid, the

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relief stands granted, but the respondents have to release to the applicant, the balance of Rs.2000/- and pay him interest on Rs.28460/- from 1997 to December 2001 @ 9%. This should be done within three months from the date of receipt of a copy of the order. Respondents also are directed to grant the applicant the benefit of fixation from 30.9.97, ^{pay} of the higher post in actual terms and not notionally as has been done. Arrears arising therefrom also should be paid within three months as above. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

/kdr/