

Central Administrative Tribunal
Principal Bench

D.A. No. 397 of 2001

New Delhi, dated this the

1st JANUARY 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Tika Ram,
S/o Shri Ram Piarey,
Ex-Office Superintendent,
Central Translation Bureau
New Delhi.

R/o A-11/38, Sector 18,
Rohini, Delhi-110085. . . Applicant

(By Advocate: Shri Sanjay Kumar)

Versus

1. Union of India through
Shri Ashok Kumar,
Secretary,
Dept. of Official Language,
North Block, New Delhi.
2. Shri R.K. Saini,
Director,
Central Translation Bureau,
Paryavaran Bhawan,
8th Floor,
C.G.O. Complex,
Lodhi Road,
New Delhi.
3. Shri Med Singh Saharawat,
Office Superintendent,
Central Bureau of Translation,
Raj Bhasha Vibhag,
Grah Mantralaya,
Paryavaran Bhawan,
New Delhi.
4. Shri Roshan Lal,
Pay & Accounts Officer,
Ministry of Home Affairs,
Secretariat,
Jamnagar House,
New Delhi.
5. Secretary to the Govt. of India,
Dept. of Personnel,
Ministry of Home Affairs,
New Delhi. . . Respondents

(By Advocate: Mrs. C.M. Chopra)

(10)

ORDERS.R. ADIGE, VC (A)

Heard both sides.

2. Admittedly, pursuant to the Tribunal's order dated 14.10.97 in O.A. No. 1584/91 (copy on record) filed by applicant earlier, allowing that O.A. and directing respondents to grant similar benefits to applicant as had been granted to one Shri Bansal, applicant has been promoted to the post of Office Superintendent (Rs.550-750) on notional basis w.e.f. 16.2.76; and as A.O. (Rs.650-1200) on notional basis w.e.f. 1.8.82. He has also been given revision of pension, as well as family pension based on the aforesaid promotion order and has also been given differential commuted value of pension.

3. The short grievance which now survives is his claim to be paid the actual pay and allowances which are attached to the promotional posts alongwith arrears, and not merely notional promotions.

4. Applicant had filed C.P. No. 337/2000 earlier, which was dismissed by order dated 13.12.2000 (copy on record), holding that this claim could not be decided in contempt proceeding and applicant was free to adopt independent proceedings if so advised. Hence the present O.A.

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5. In our considered opinion, notwithstanding the fact that by the Tribunal's order dated 14.10.97 (supra) respondents were directed to grant applicant similar benefits as had been granted to Shri Bansal, respondents cannot be faulted for granting applicant only notional promotion as O.S. and A.O. from the due dates without actual payment of arrears, in view of the express provision of FR 17 (1) as well as the Hon'ble Supreme Court's ruling by a three Judge Bench in P. Ramakrishnaiah Vs. Union of India AIR 1990 SC 166 wherein it has been held thus

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It is the settled service rule that there has to be no pay for no work i.e. a person will not be entitled to pay during the period for which he did not perform the duties of higher post although after due consideration he was given a proper place in the gradation list having deemed to be promoted to the higher post w.e.f. the date his junior was promoted, so the petitioners are not entitled to claim any financial benefits retrospectively. At the most they would be entitled to refixation of their present salary on the basis of the notional seniority granted to them in different grades so that their present salary is not less than those who were immediately below them."

6. Indeed this ratio finds support in a subsequent decision of the Hon'ble Supreme Court in State of Haryana & Others Vs. O.P.Gupta & Others 1996 (2) SLR 446, which, incidentally, has also noticed the Hon'ble Supreme Court's ruling in Union of India Vs. K.V. Janakiraman 1991 (5) SLR 602, but has distinguished it on facts.

(2)

7. In the O.A. applicant inter alia claims that respondents are estopped from giving beyond the Tribunal's order dated 14.10.97 (supra) but respondents' action is based on FR 17(81) and there is no estoppel against rules.

8. The O.A., therefore, warrants no interference. It is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

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(S.R. Adige)
Vice Chairman (A)

Karthik