

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1694/99

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New Delhi this the 1st day of February, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mrs. Shanta Shastri, Member (Admnv)

K.R. Krishnan,
Jt. Director, DAVP,
297, MIG Flats, Prashad Nagar,
New Delhi-110005.

...Applicant

(By Advocate Shri O.P. Gehlot)

-Versus-

1. The Director General,
DAVP,
3rd Floor, PTI Building,
Parliament Street,
New Delhi-110001.
2. Union of India through
the Secretary, Ministry of
Information and Broadcasting,
'A' Wing, Shastri Bhawan,
New Delhi-110001.

...Respondents

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

By Reddy J.-

The applicant was promoted to the post of Deputy Director (Production), D.A.V.P., Ministry of Information and Broadcasting in the scale of Rs.3700-5000 on ad hoc basis for a period of six months by order dated 20.7.94 (Annexure A-3). His promotion was thereafter continued six months each at a time without any break. The post of Deputy Director has been re-designated subsequently as Joint Director. The applicant was to retire on 31.1.96. His services were, however, extended by an order dated 8.2.96 (Annexure A-7) w.e.f. 1.2.96 in public interest for a period of three months. His services were thus continued as Joint Director in the Ministry. On the expiry of the ^{period} ~~grant~~ of extension of service, the applicant retired on 30.4.96. ^{by an order} ~~by an order~~ ^{Pension} ~~order~~

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payment order has been issued on 30.4.96 fixing his monthly pension at Rs.1770/- w.e.f. 1.1.96, correctly calculating the preceding 10 months pay, i.e., from July, 1995 to April, 1996 as Rs.4325/- p.m. The applicant is now aggrieved by the impugned order dated 17.3.99, revising the pension of the applicant on the ground that the applicant's extension was deemed to be given only in the post of Production Officer which was his substantive post. Consequently, the pension has been revised treating his pay as Rs.4321/- p.m. w.e.f. 1.5.96. The learned counsel for the applicant submits that as the applicant was given extension in the post of Joint Director, as is evident from the order of extension, and not in the post of Production Officer, ^L~~hence~~, he was entitled for the revision of pay, taking into consideration the pay in the post of Joint Director.

2. It is the case of the respondents that the applicant having not been promoted regularly to the post of Deputy Director in the beginning and has been promoted only on ad hoc basis, he was deemed to have been given extension only in the substantive post of Production Officer which was the substantive post prior to his promotion to the post of Deputy Director on ad hoc basis. ^(Jt Director on redesignation) It is also pointed out that the services of the applicant have not been regularised in the post of Joint Director even after his retirement. The learned counsel for the respondents, therefore, justifies the action of the respondents. He also relies upon the Note 5 of FR 56.

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3. It is not in dispute that the applicant has been promoted on ad hoc basis to the post of Deputy Director. The applicant has been continued without any break and has been working as a Joint Director till he was to retire on 31.1.96. ^{Immediately after} ~~Even before~~ his retirement he has been given extension by the order dated 8.2.96. A perusal of the order of extension makes it clear that the extension was given only in the post of Joint Director which he was holding on ad hoc basis. He subsequently retired from service on 30.4.96 after the extension has been expired. In the order passed by the pension payment office the applicant was shown as Joint Director on the date of his retirement from the Government service. Accordingly his pension has been fixed by the office. The impugned order has been passed after three years taking the view that the applicant's extension must be deemed to have been only in the post of Production Officer which he was holding on regular basis. FR-56 speaks of extension of a Government servant. FR 56 (d) provides for extension of service beyond the date of retirement. The learned counsel for the respondents relies upon Note 5 of FR 56, which reads as follows:

"A Government servant, including a workman, who is granted extension of service, after he has attained the prescribed age of superannuation, shall not be promoted to another post during the period of extension."

4. It only speaks that a Government servant shall not be given further promotion to any post during the period of extension. We are of the view that this

[Signature]

Note has no application to the facts of the case and it does not assist the contention of the learned counsel for the respondents. It is true that the applicant has not been regularly promoted to the post of Deputy Director/Joint Director. He was only promoted on ad hoc basis and his ad hoc promotion has been continued till he retired from service. But we are of the view that the promotion on ad hoc basis should have no effect upon the fixation of the pension of the applicant. We are not shown any provision of law in this regard why it should be deemed that the extension should be only in the regular post and not in the post in which he retired. No such indication is discernible from the order of extension. In the circumstances we are of the view that the impugned order dated 17.3.99 (Annexure A-1) and the revised pension order dated 19.2.98 (Annexure A-2) are illegal and liable to be quashed. They are accordingly quashed. The O.A. is allowed. No costs.

Shanta J-

(Smt. Shanta Shastri)
Member (Admnv)

'San.'

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman (J)