

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.192/99

(14)

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 22nd day of March, 2000

Shri A.K.Srivastava
s/o Late Shri A.P.Srivastava
r/o 266, Sector 3
Sadiq Nagar
New Delhi.

... Applicant

(Applicant in person)

Vs.

1. Union of India through
Secretary
Ministry of Urban Affairs & Employment
Nirman Bhawan
New Delhi.

2. Director General
CPWD
Nirman Bhawan
New Delhi.

3. Dy. Director
CPWD
Nirman Bhawan
New Delhi. ... Respondents

(By Shri K.C.D.Gangwani, through Shri M.K.Bhardwaj,
Advocate)

O R D E R (Oral)

By Reddy, J.-

The applicant appears in person. None for the respondents either in person or through their counsel except the aforesaid proxy counsel are present, to inform that the Advocates are abstaining from Court.

2. The matter pertains to the fixation of pay scale. The applicant was working as Junior Engineer in the grade of Rs.425-700. On the basis of the Fourth Pay Commission recommendations, the respondents have implemented the same by fixing the grade of Junior Engineers in two levels, i.e., 25% Junior Engineers were to be provided Level-II in the pay

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scale of Rs.1400-2300 and 75% Junior Engineers were to be provided Level-I in the pay scale of Rs.1640-2900. The applicant was placed in the scale of Rs.1640-2900 as Level-I but implementation of these scales were kept in abeyance. As per the notification dated 27.3.1991, issued by the respondents, Junior Engineers of CPWD on completion of five years in the entry grade of Rs.1400-2300 will be placed in the higher pay scale of Rs.1640-2900. Since the applicant had completed five years of service, the applicant was placed in the pay scale of Rs.1640-2900 and the pay of the applicant was fixed at Rs.1700/-. The Pay & Accounts Officer found, after thorough scrutiny, that the pay of the applicant was rightly fixed at Rs.1700/- vide its order dated 29.10.1997. The same issue, was, however, again referred to the Director General, CPWD, and the Director General in its impugned order dated 14.8.1998 held that the pay of the applicant has been however wrongly fixed. The representation made against the orders of the Director General is however rejected.

3. It is the case of the applicant that he is entitled to fix his pay at Rs.1700/- per month w.e.f. 1.1.1986 in the scale of pay of Rs.1640-2900 and that the fixation at Rs.1640/- per month without giving the increment, and without issuing notice, is bad in law.

4. The respondents however have justified their action and submit that as the pay of the applicant was wrongly fixed, the impugned order was passed rightly fixing his pay at Rs.1640/-. He is not entitled for increment in view of O.M. dated 23.3.1995.

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5. We have considered the pleadings in this case carefully. Law is well settled that the principles of natural justice and fair play require that before passing any order adversely affecting the pay of the applicant, notice has to be issued and the affected party be heard. The unilateral action would prejudice of the affected persons rights. It is seen from the facts that the applicant's pay has been fixed by more than one authority which however has been altered by the DG without issuing a notice to him. The applicant has been drawing a pay of Rs.1700/- per month which has now been altered to Rs.1640/-. Excess pay is sought to be recovered from him. The questions whether the pay was rightly fixed in accordance with OM dated 23.3.1995 or whether the FR 22(C) (now FR 22(1)(a)(i) will be applicable to the applicant, are all questions to be decided in this OA. In the circumstances, without expressing any opinion on the merits of the case, we dispose of the OA, quashing the impugned order of fixing the pay of the applicant at Rs.1640/-, directing the respondents to issue a show cause notice and hear the applicant before passing any order as to the fixing of pay of the applicant. We also direct the respondents that any amount that has been recovered from the pay of the applicant by virtue of the impugned order, should be refunded. The OA is accordingly disposed of at the admission stage itself. No costs.

Shanta S
(SHANTA SHATRY)

MEMBER(A)

V. Rajagopala Reddy
VICE-CHAIRMAN(J)

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