

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1479/98

New Delhi this the 15<sup>th</sup> day of September, 2000

HON'BLE MR. KULDIP SINGH, MEMBER (J)  
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Harnam Singh, s/o Late Sh. Jai Singh,  
R/O 728, Sector-II, Type-II, Sadiq Nagar,  
New Delhi.

... Applicant

(By Advocate: Sh. Deepak Verma)

Versus

Union of India through

1. The Secretary, Ministry of Home Affairs, Govt. of India, North Block, New Delhi.
2. The Secretary, Deptt. of Expenditure, Ministry of Finance, North Block, New Delhi.
3. Director, National Crime Records Bureau, Ministry of Home Affairs, East Block, 7, R.K.Puram, New Delhi.

... Respondents

(By Advocate: Sh. N.K. Aggarwal)

O R D E R

HON'BLE SH. S.A.T. RIZVI, MEMBER (A):-

This application has been filed on the ground of discrimination meted out to the applicant (SI) who happens to be a promotee SI in comparison to the other SIs who had joined the Organisation on deputation. His contention is that he is placed similarly to the other set of SIs, namely, the deputationist SIs. The applicant is, in particular, aggrieved by the respondent Ministry (NCRB)'s order dated 6.2.98 (Annexure A-2) by which the SIs on deputation have been given revised designations and pay scales in terms of the original OM dated 11.9.89, issued by the Ministry of Finance (Deptt. of Expenditure) providing for the restructuring etc. of the

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EDP staff of the Ministries/Departments of the Govt. of India. As many as 16 different SIs have been given revised designations and pay scales by the aforesaid order of 6.2.98. The list contains the names of two SIs, who had joined the NCRB on deputation respectively on 9.2.90 and 1.1.92 (Debashish Mitra and Kanwar Singh, respectively). The applicant himself was promoted to the rank of SI w.e.f. 14.11.91 and was thus, senior to Kanwar Singh in the NCRB. However, he has not been given the scale of pay Rs.1600-2660/- (DPA-A) as given to Kanwar Singh. Hence, this OA.

2. We have heard the learned counsel for both the parties and have perused the material on record.

3. The applicant has no grievance upto to the stage of grant of the pay scale of Rs.1320-2040/- (pre-revised) given to him as well as to the deputationist SIs. However, problems arose with the issuance of the MHA (NCRB) order dated 8.10.92 by which the applicant was placed in the pay scale of Rs.1400-2300/- on the ground that as on 11.9.89, he was a Head Constable and, therefore, could not have been placed in a grade higher than Rs.1400-2300/-. The applicant has alleged discrimination having regard to better treatment meted out to the aforesaid Debashish Mitra and Kanwar Singh. In respect to these SIs, the respondents have made an incorrect statement to the effect that both of them were SIs not only on 6.5.91 on which date the revised pay scales and designations were enforced in the NCRB but also on 11.9.89 on which date, the overall scheme of

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re-designation/restructuring of the DPA staff in the Govt. of India as a whole was brought into force. The fact of the matter is that Kunwar Singh was a HC before he was inducted as SI in the NCRB and the other person, namely, Debashish Mitra was an UDC in the ICMR and joined NCRB as SI on deputation on 9.2.90. According to the applicant, since both the SIs abovementioned were not SIs as on 11.9.89 and were only UDC/HC, they too should have been treated on par with the applicant. That was not done resulting in discrimination against the applicant. The details provided in the documents placed on record, revealed that Debashish Mitra, who was a UDC, joined the NCRB as SI on 9.2.90, and Kunwar Singh, who was HC joined the NCRB on 1.1.92 and that they were absorbed in the NCRB respectively from 9.6.93 and 29.12.94. Initially, therefore, they were given the higher scale of DPA-A with effect from the respective dates of their absorption in the NCRB but later, the orders were revised and they were given the higher scale of DPA-A from the respective dates of their joining the NCRB on deputation. Thus, Debashish Mitra was given the higher scale of DPA-A from 9.2.90 and Kanwar Singh from 1.1.92. The applicant, who was a HC but was promoted as SI from 14.11.91, was left out in the process even though he was in any case senior to Kanwar Singh assuming that the seniority is to be counted from the date of joining the NCRB on deputation. Normally, when outsiders join an Organisation on deputation, their seniority is counted from the date of their absorption in the Organisation. If this reasoning is kept in mind, the applicant stands senior to both Debashish Mitra and Kanwar Singh, who were absorbed in NCRB respectively on 9.6.93 and 29.12.94.

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4. After considering the matter, we do find it rather strange that seniority etc. of the applicant vis-a-vis Debashish Mitra and Kanwar Singh was not kept in mind even though the order dated 8.10.92 placing the applicant in the lower scale of Rs.1400-2300/-, was itself issued after the applicant had already been promoted as SI on 14.11.91. After all the MHA, in their letter dated 6.5.91 on the subject of rationalisation of EDP posts in the NCRB, had provided for the revised designation of DPA-A for the SIs working in that Organisation. There should have been no hesitation, therefore, in placing the applicant in that grade when the orders in respect of individual incumbents were finally issued much later, i.e., on 8.10.92 and more so because the Kanwar Singh who was junior to the applicant in any case, had been considered or was to be considered for the grade of DPA-A.

5. From the letter of rejection issued by the MHA (NCRB) dated 18.6.98, it appears that the applicant, despite his promotion as SI w.e.f. 14.11.91, was notionally pushed back and seen as mere HC as on 11.9.89 and given the scale of Rs.1400-2300/- meant for DEO-C which, according to the MHAs' letter of 6.5.91 was the revised designation for the HCs. The further argument extended by the respondents is that having thus fallen into the stream of DEOs, the applicant could travel further up only in that very stream and could not get into the stream of DPAs. Based on this logic, the respondents have already considered him for further

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promotion into the grade of DEO-D w.e.f. 2.11.94. It is as if the applicant has been put into the DEOs' stream permanently, although no reasons were available in record for the applicant having been chosen for inclusion in that particular stream. It is also noticed that assuming that the applicant was to be included in the DEO's stream, he could as well have been re-designated as DEO-D w.e.f. 14.11.91 when he was promoted as SI, in terms of the MHA's letter dated 6.5.91. If the respondents had opted for this course of action, the applicant would have been placed in the pay scale of Rs.1600-2660/- which is equal to the pay scale of DPA-A right from 14.11.91, instead of being placed in that pay grade now from 2.11.94.

6. The applicant has, therefore, been a loser without any justification whatsoever provided by the respondents. It is, in our view, a clear case of discrimination which hits article 14 as well as article 16 of sfc Constitution. For these reasons, we do not wish to go into the orders passed by this Tribunal, to which a reference was made by the parties inasmuch as the facts and circumstances of the present case would seem to be materially different from the facts and circumstances of the parties in those OAs. In the circumstances, the letter of rejection dated 18.6.98 issued by the MHA (NCRB) cannot stand scrutiny in the eye of law and would need to be reviewed by the MHA.

7. In the result, the OA partly succeeds and we are inclined to dispose it of with a direction to the

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respondents to review the entire matter in the light of the observations contained in this order and to pass a speaking and a reasoned order in this case after giving the applicant a reasonable opportunity to state his case. The respondents shall take a decision in the matter within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

Kuldeep Singh  
(Kuldip Singh)  
Member (J)

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