

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.1805/98

New Delhi: this the 20th day of November, 2000.

HON'BLE MRS. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Mahood Safer,
S/o Sh. Zafar Nasib,
R/o 1090 Ladhawala,
Chauri Gali,
Muzaffar Nagar, (UP)

.....Applicant.

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India,
through
Secretary,
Ministry of Communication,
Sandar Bhawan,
Patel Chowk,
New Delhi.

2. Chief General Manager,
UP Circle (West),
Rajpura Road,
Windows' Shopping Centre,
Dehradun (UP),

3. General Manager,
Telecom District Meerut,
(UP).

.....Respondents.

(By Advocate: Shri VSR Krishna)

ORDER

S. R. Adige, VC (A):

Applicant seeks removal of anomaly in pay fixation in regard to him as compared to S/ Shri Umesh Kumar, Jai Singh Rana and Kanhayya Lal, and prays for fixation of pay in the scale of Rs. 425-700 w.e.f. 5.10.82 with consequential benefits.

2. Heard both sides.

3. Admittedly as per respondents' circular dated 6.2.85 (Annexure-P-IV Colly) those draftsmen who were in service on 15.5.82 who possessed the requisite qualification were entitled to the revised scale of Rs. 425-700. Applicant as per his own averments in the OA was given offer of appointment on 13.1.82, and

was asked to join service on 5.10.82 (Annexure-P-3).

4. Thus on 13.5.82 applicant was not in service and hence is not entitled to the revised pay fixation in the scale of Rs.425-700.

Applicant -

5. Respondents however complain that persons named in para 1 above, who were also not in service on 13.5.82 have however been granted the benefits of revised pay fixation in the scale of Rs.425-700. It is argued on his behalf that although respondents in their reply to para 4.12 and 4.13 of the OA have acknowledged that fixation of pay of Shri Umesh Kumar in revised scale of Rs.425-700 was in contravention of instructions and instruction had been issued to withdraw the wrong revision of pay, the same was not being implemented, and the persons named in para 1 above, were continuing to enjoy the benefits of the same, and applicant was thus being discriminated against.

6. The plea of discrimination can be advanced in furtherance of the rule of law, not against it. If the persons named in para 1 above are illegally being granted certain benefits, applicant has no enforceable legal right to compel respondents to commit another illegality in his favour. What respondents should do is to ascertain the circumstances in which the persons mentioned in para 1 above have been granted pay fixation in the scale of Rs.425-700, and if they are satisfied that their pay has wrongly been fixed in the scale of Rs.425-700, as they seem to be in the case of Shri Umesh Kumar, respondents should enforce their decision to withdraw the

wrong revision of pay in accordance with law after putting those persons to notice, and also consider ordering recoveries, such that the wrong is not perpetuated leading to heart burning amongst others. This should be done within a specified time frame, preferably within 3 months from the date of receipt of a copy of this order.

7. Subject to what has been stated in para 6 above, the OA is disposed of. No costs.

A. Vedavalli
(DR.A.VEDAVALLI)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A).

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