

14

Central Administrative Tribunal
Principal Bench

O.A.No.1332/95

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 8th day of October, 1996

Shri Kewal Krishan
s/o Shri Kudan Lal
Professional Assistant (Hydro-mat)
I.S.M.Dte.,
Central Water Commission
Sewa Bhavan
R.K.Puram
New Delhi - 110 066.

... Applicant

(By Shri K.L.Bhandula, Advocate)

Vs.

1. Union of India through
Secretary to the Govt. of India
Ministry of Water Resources
New Delhi - 110 001.

2. The Chairman
Central Water Commission
Sewa Bhavan
R.K.Puram
New Delhi - 110 066.

... Respondents

(By Shri B.Lall, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant was appointed as Senior Computer on 25.10.1977 in the scale of Rs.1400-40-1800-EB-50-2300. He filed an Original Application No.2016/90 claiming benefit of his adhoc service which was allowed. On that basis, the applicant was promoted as Professional Assistant (Hydro-mat) notionally w.e.f. 2.3.1987 and on actual basis w.e.f. 9.9.1994. The pay scale of Professional Assistant (Hydro-mat) was initially also Rs.1400-2300, the same as that of the Senior Computer. The pay scale of the post of Professional Assistants were revised to Rs.1400-2600 as a result of this Tribunal's orders dated 6.2.1992 in OA No.1776/88, OA No.19/89 and OA No.856/89. In those cases the directions of this Tribunal were that such

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rationalisation should take place w.e.f. 1.1.1988 but the actual payment in the rationalised higher scale would take place prospectively. The order of revision of pay scale of Assistant from Rs.1400-2300 to Rs.1400-2600 were issued vide order 20.8.1993 giving retrospective effect from 1.1.1988. The applicant is aggrieved that the respondents have wrongly refixed his pay on the basis of his notional promotion to the post of Professional Assistant under FR 22(i)(a)(2)/(FR 22(a)(ii) old), as if the the promotion i.e. in the promotion in the higher post, does not involve the assumption of the duties or responsibilities of greater importance. As a result, he did not get any benefit of his promotion at all.

2. The respondents in their reply have stated that the post of Senior Computer and Professional Assistant were carrying the same scale of Rs.1400-2300 on the date when the applicant was appointed notionally as Professional Assistant i.e. 3.8.1987. In the circumstances, his pay was correctly refixed notionally under FR 22(i)(a)(2) since the pay scale was the same and there was no assumption of higher responsibility.

3. I have heard the learned counsel on both sides. It is correct that on 3.8.1987, when the applicant was given notional promotion as Professional Assistant, the pay scales of the two posts being the same, his pay notionally had to be fixed under the relevant rules of FR 22. However, as admitted by the respondents they had revised the pay of the Professional Assistant with retrospective effect i.e. 1.1.1988, although, the actual payments were to take prospectively from the date of issue of the orders i.e. 20.8.1993. Accordingly, the applicant had a right to

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refixation of pay in the grade of Professional Assistant notionally w.e.f. 1.1.1988. The respondents claim that the benefit of this revision was given to applicant as is shown in their order dated 28.12.1994 (Annexure 4) to the counter reply). Since this was a revision of the pay scale only, there being no change in the nature of duties, the respondents claim that the pay had to be fixed under FR 23, and in such a case where there is no stage equalent to the pay drawn by the incumbent, his pay would be fixed at the next lower stage ^{with} by the differential ~~is~~ allowed as a special pay.

4. On consideration, I feel that there seems to be some substance in the allegation of the applicant that though the Tribunal had ordered his promotion as Professional Assistant from the post of Senior Computer, yet he has not been given ^{any} no benefit as a result thereof in the higher pay scale, I note that by the order of this Tribunal in OA No.1776/88, the pay scale of Profesional Assistant was revised on the ground that the post of Professional Assistant carried higher responsibility than that of Senior Computer. On the other hand, applicant's pay fixation in the revised pay scale is made on the basis that there is no assumption of higher responsibility. Thus if he had been promoted after 1.1.1988, he would be given benefit of fixation to a higher pay scale. He is now made to suffer just because of his promotion is notionally deemed to be from 2.3.1987.

5. In the circumstances, the applicant states that he does not want his pay refixation notionally from 2.3.1987 but from the date of his actual promotion, i.e. 9.9.1994. Since the retrospective promotion results in no bnefit to

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the applicant the respondents should allow his promotion with prospective effect from 9.9.1994, the later date and re-fix his pay as Professional Assistant on that basis.

6. Accordingly, the application is disposed of with the direction that the Respondent No.2 will re-fix the pay of the applicant on the basis of his ~~notional~~^{or} promotion w.e.f. 9.9.1994 as requested by the applicant vide his letter dated 8.3.1995 (Anexure 2 of the OA). The applicant will also be entitled to the arrears of pay that may arise on account of such re-fixation. No costs.

R. K. Ahooja
(R.K.AHOOJA)

MEMBER(A)

/rao/