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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 485/1995

New Delhi this the 12th day of August, 1996.

HON'BLE SHRI JUSTICE A. P. RAVANI, CHAIRMAN
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Harikishan Singh S/O S.
Narotam Singh, Retd. Sr.
Personal Assistant,
Research & Analysis Wing,
Cabinet Secretariat,
New Delhi and R/O
C/O Shri Gursharan Singh,
DG-2/52-C Vikaspuri,
New Delhi-110064.

... Applicant

(By Shri M. L. Chaula, Advocate)

-Versus-

1. Union of India through
Secretary to Govt. of India,
Cabinet Secretariat,
Rashtrapati Bhawan,
New Delhi-110004.
2. The Secretary,
Research & Analysis Wing,
Cabinet Secretariat,
Govt. of India, Room No.
8-B, South Block,
New Delhi-110011.
3. Secretary,
Deptt. of Personnel &
Training, Ministry of Home
Affairs, North Block,
New Delhi - 110001. ... Respondents

(By Shri M. K. Gupta, Advocate)

O R D E R (DRAL)

Shri Justice A. P. Ravani —

The applicant was serving as Stenographer Grade-II in the office of respondent No.2. He has retired as Private Secretary. He claims that he should have been granted promotion with effect from July 23, 1984 when his immediate

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juniors were promoted. The aforesaid prayer is made on the basis of Next Below Rule (NBR). The applicant had made representation on this behalf which have been rejected by Annexures-A, and A-1 dated June 9, 1994 and September 8, 1994 respectively. The prayers made by the applicant read as follows :-

- "(i) To quash and set aside the impugned order passed by the Respondent No.3 (Department of Personnel & Training, MHA., New Delhi) rejecting the contention of the applicant vide ANNEXURES A and A1 conveyed to the applicant by Respondent No.2;
- (ii) To direct the Respondents to declare the applicant entitled for 'deemed Promotion' as Sr. P.A. w.e.f. 23.7.1984 the date when his immediate junior was promoted with all consequential benefits; including pension and other retiral benefits;
- (iii) To further direct the Respondents to pay all arrears accruing therefrom with penal interest @ 18% per annum;
- (iv) To allow this application with exemplary cost as the applicant has been dragged into litigation for no fault of his; and
- (v) To pass any other order or orders, direction or directions as deemed fit and appropriate by this Hon'ble Tribunal in the facts and circumstances of the case to meet the ends of justice."

2. On behalf of the respondents, affidavit in reply has been filed in which it is, inter alia, stated that the applicant has been granted promotion on the basis of NBR w.e.f. July 23, 1984. It is also stated that the pay of the applicant has been fixed on the aforesaid basis

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and an amount of Rs.3,263/- which accrued to the applicant on account of difference of pay and encashment of unutilised earned leave has been calculated and a cheque bearing No. 080884 dated August 1, 1996 for the aforesaid amount has been kept ready for being delivered to the learned counsel for the applicant.

3. In view of the aforesaid position, in substance, this application stands allowed by the respondents themselves. The applicant is, however, not ready to accept the cheque for Rs, 3263/- on the ground that the applicant disputes the correctness of the amount. It is also submitted on behalf of the applicant that sufficient particulars are not furnished in the affidavit in reply showing as to on what basis and in which manner the amount of difference of pay and allowances payable to the applicant has been calculated. Therefore, it is prayed that the application be admitted and be decided in due course.

4. In our opinion, it would not be proper to entertain this application. Instead, ends of justice would be met if the following directions are given and the application is disposed of :-

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- (1) The respondents shall ~~disburse~~ ^{disputch} the cheque/
^{gross} amount of Rs.3,263/- which, according to
the respondents, is due and payable to the
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(P)

applicant within three days. If the applicant feels aggrieved by the orders which have been produced together with the affidavit in reply, and if the applicant feels that he has not been paid all the consequential benefits flowing from the orders produced together with the affidavit, it would be open to him to challenge the legality and validity of the same by filing fresh O.A.

- (2) Having regard to the facts and circumstances of the case, we do not think it proper to pass any order as regards payment of interest. This is so because there does not appear to be any unjust or unreasonable delay on the part of the respondents. As far as the pensionary benefits are concerned, it will be open to the applicant to agitate the same, after making proper verification, in the fresh O.A. that he may file.

5. Subject to the aforesaid observations and directions, the application stands disposed of.

R. K. Anjoja
(R. K. Anjoja)
Member (A)

A. P. Ravani
(A. P. Ravani)
Chairman

/as/