

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 1135/96

New Delhi this the 8th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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

Dr. Ram Chandra Jha,
Ex-Director-General
Indo Tibetan Border Police,
Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi.

R/O E-230, First Floor, Greater
Kailash Part-II, New Delhi-110048

... Applicant

(By Advocate Sh. K.N. Balgopal)

Versus

Union of India
(Through Home Secretary)
North Block, New Delhi.

... Respondent

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

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

The applicant, who is an IPS Officer of 1961 batch was allocated to the cadre of MP. He was sent on deputation to Central Reserve Police Force (CRPF) as Inspector General of Police in 1987. He claims that his name was duly empanelled for the post of Additional Director General of Police but though this post had fallen vacant in the CRPF in 1992, he was deprived of his promotion as the respondents had first not filled up the vacancy and later had inducted an officer on deputation from the State directly against this post, as a result of which the applicant was never appointed to the post carrying the pay scale of Rs. 7300-7600. Ultimately, the applicant was promoted directly as the Director General of Police, ITBP in the pay scale of Rs. 7600-8000 w.e.f. 15.4.1994. The applicant while holding the post of DG, ITBP was also ordered to take over the additional charge of the post of Director General, CISF with effect from the afternoon of 31.8.1994. The applicant states that he continued to hold this additional charge till 31.1.1995 when he had otherwise superannuated from the Govt. service.

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2. In the background of the facts mentioned above, the applicant has come to the Tribunal seeking a direction to declare the applicant promoted to the scale of Rs.7300-7600 (Scale of Additional Director General) from 1.2.1992 when the said post fell vacant and also to declare the applicant entitled to the pay of Rs.8000/- (Scale of DG-CRPF) from 1.12.1993 when the said post fell vacant. He has also sought a direction to pay the applicant higher pay of the post of DG(CISF) on the basis that he had held charge of this post from 31.8.94 to 31.1.1995.

3. The respondents in their reply have contested the above claims on various grounds. They submit that the reliefs claimed by the applicant are time barred. They also point out that the posts of ADG/DG are selection posts and appointment to the same have to be made by selection on merit with due regard to seniority and the claim of the applicant for the pay of the post of DG, CISF does not fulfil the requirement of FR 49 as the same was only a stop gap arrangement.

4. We also find that the reliefs claimed by the applicant with regard to his promotion as ADG from 1.2.1992 and his promotion of DG, CRPF from 1.12.1993 are time barred as he has come before the Tribunal only on 30.1.1996. However, his claim for grant of a higher pay scale on the basis of holding a higher post of DG, CISF is on ^{former} ~~former~~ ground. FR:49(1) reads as follows:

" where a Government servant is formally appointed to hold full charge of the duties of a higher post in the same office as his own and in the same cadre/line of promotion, in addition to his ordinary duties, he shall be allowed the pay admissible to him, if he is appointed to officiate in the higher post, unless the competent authority reduces his officiating pay under Rule 35 ; but no additional pay shall however, be allowed for performing the duties of a lower post

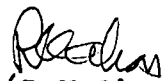
5. In the present case ⁱⁿ the order of Ministry of Home Affairs ^{which} had directed the applicant to hold the additional charge of DG, CISF, there was no stipulation that it was ^a current duty charge. The applicant was thus discharging the full responsibilities of the additional charge

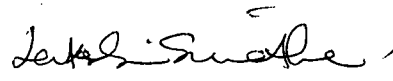
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of the post of DG, CISF which continued till 31.1.1995 when he superannuated from service. Learned counsel for the applicant also relied on the judgement of the Tribunal in Andrew Verity Liddle Vs. UOI & Ors (OA 2296/96) decided on 12.3.1997. In that case the applicant's name was not empanelled but had been asked to hold the current charge of the higher post till the date of his retirement. In the facts of the case, the Tribunal gave a direction to fix the pay of the applicant at Rs.8000/-P.M. In the present case the applicant was not holding the current charge but full charge the post of DG, CISF carrying the pay scale of Rs. 8000/-PM for which formal orders were also available.

6. In the circumstances, OA is partly allowed. The respondents are directed to allow the applicant the pay of the DG, CISF for the period he had been directed to hold the additional charge of the post as per order dated 31.8.94, with all consequential benefits. This shall be done within a period of four months from the date of receipt of a copy of this order. No costs.


(R.K. Ahooja)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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