

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(5)

O.A.No.2144/1996

NEW DELHI, THIS THE 14TH DAY OF MARCH, 2000.

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. V.K. MAJOTRA, MEMBER (A)

Shri Suresh Chand Tyagi
S/o Late Shri Pitam Singh
R/o C-7, Delhi Administration Flats
Model Town
Delhi-110009.

...Applicant

(Applicant present in person)

vs.

1. Govt. of National Capital Territory of Delhi,
Through: Its Chief Secretary,
5, Sham Nath Marg,
DELHI-110054.
2. Principal Secretary (Finance),
Govt. of N.C.T.,
5, Sham Nah Marg,
DELHI-110054.

...Respondents.

(None for the respondents)

ORDER (ORAL)

Shri V.K. Majotra, AM:

We have heard the applicant, who is present in person. The respondents and their Advocates are absent. We proceed to dispose of the OA. in their absence in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Vide Order dated 10.11.1993, the applicant was promoted on regular basis from the post of Junior Accounts Officer to that of Assistant Accounts Officer with effect from 1.4.1987. It was made clear in the aforesaid order that the applicant would not be entitled to any arrears of pay on account of the promotion. Vide Order dated 4.6.1993, the applicant was promoted from the post of Junior Accounts Officer to that of Accounts Officer in the pay scale of Rs.2375-3500 with effect from 1.6.1989 on notional basis. The applicant has challenged these orders in the present OA to the extent that he has been promoted on a national basis only and denied arrears of pay and allowances on promotion to the post of

Assistant Accounts Officer and Accounts Officer respectively. Applicant had earlier filed OA No.1317/1987 seeking amendment of 1982 Rules relating to Delhi Administration Accounts Service Grade II (for short, the DAAS) and also a direction to the respondents to promote him to Grade I with all consequential benefits. Allowing the said OA on 17.7.1992, the following directions were given by the Tribunal to the respondents:-

"In the light of the foregoing discussion, we allow the application. We strike down the provision in the Delhi Administration Accounts Service Rules, 1982 and the notification dated 4.9.1990 whereby the two duty posts of SAS Accountants/Junior Accounts Officers Grade-II in the office of the Commissioner of Police, Delhi, mentioned at Sl.No.12 in the schedule to the said rules have been excluded from the Service. The effect of striking down the provisions of the said rules is that the applicants should be deemed to belong to the Delhi Administration Accounts Service and that they would be entitled to all the benefits of the members of the said Service."

According to the applicant, the aforesaid orders dated 4.6.1993 and 10.11.1993 were passed in partial compliance of the directions of the Tribunal which have been extracted above. The applicant filed CCP No.233/94 which was dismissed vide orders passed on 23.4.1996 with the following observations:-

"If the petitioner had any subsisting grievance in regard to the arrears of pay and allowances, it is upto them to seek appropriate relief in a proceeding separately instituted in that behalf."

The action of the respondents in not granting the arrears of pay and allowances to the applicant allegedly has been

contrary to the directions of the Tribunal given vide order dated 17.7.1992, which had been assailed before the Tribunal. As a result of the aforesaid order of the Tribunal, the applicant was appointed SAS Accountant/Junior Accounts Officer with effect from 19.2.1982 vide order dated 5.5.1993, Annexure A-4. He was promoted as Accounts Officer on regular basis. Vide letter dated 1.6.1993, the ^{date of} appointment of the applicant was treated as 19.2.1983 instead of 19.2.1982, Annexure A-5. He was further promoted as Accounts Officer on regular basis under Rule 7 of the Delhi Administration Accounts Services (Grade-I) Rules, 1983 with effect from 1.6.1989 on notional basis. Vide order dated 10.11.1993, he was ordered to be promoted on regular basis to the post of Assistant Accounts Officer with effect from 1.4.1987 and was ordered not to be entitled to any arrears of pay on that account. According to the applicant, his batchmates in DAAS were promoted with effect from 27.4.1988 whereas the applicant has been promoted ^{as Accounts Officer} with effect from 1.6.1989

As per Office Memorandum dated 25.4.1990, Annexure A-6 restructuring of Accounts Service in organised Accounts Cadre was effected and a number of persons were promoted to the higher functional grade in the pay scale of Rs.2000-3200 with effect from 1.4.1987 and were paid arrears of pay and allowances from the very same date. It is contended that ^{whereas} the batchmates of the applicant in DAAS and other officials who were appointed as Junior Accounts Officer with effect from 1.4.1983 were promoted to the post of Accounts Officer with effect from 27.4.1988 and paid in the scale of Rs.2375-3500, placing the applicant in the pay scale of Rs.2375-3500 with effect from 1.6.1989 that too only on notional basis is arbitrary and illegal. The applicant has also pointed out that the order in OA No.1317/1987 was issued on 17.7.1992 yet applicant's promotion order was issued on 4.6.1993

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which delay is also causing prejudice to the applicant. The applicant has sought quashing of the Office Order dated 4.6.1993, Annexure A-1 to the extent it orders his promotion to the post of Accounts Officer with effect from 1.6.1989 on notional basis and the order dated 10.11.1993 to the extent it denies arrears of pay and allowances on promotion to the post of Assistant Accounts Officer. The applicant has also sought direction to the respondents to make payment of arrears of pay and allowances with effect from 1.4.1987 till the date of issue of order dated 4.6.1993 with all consequential benefits including interest at the rate of 24% per annum till the date of payment.

3. The respondents in their counter have contended that the applicant cannot be equated with his batchmates in DAAS as per the then Draft Rules they were eligible to be appointed as such. The applicant was not promoted to the post of Assistant Accounts Officer with effect from 1.4.1987 along with the officers belonging to the DAAS as the members of DAAS were in that service on the said date of 1.4.1987 from and when the functional grade of Rs.2000-3200 was effected and became admissible as per Office Memorandum dated 25.4.1990. As the applicant was not in actual service i.e. in DAAS on 1.4.1987, order dated 25.4.1990 regarding the functional ^{grade} was not made applicable ^{him and} to those who were not in service of DAAS on 1.4.1987. The respondents have also drawn our attention to FR 17 whereunder "an officer shall begin to draw the pay & allowances attached to his tenure of a post w.e.f. the date when he assumes the duties of that post, and shall cease to draw them as soon as he ceases to discharge those duties." The applicant did not hold the post of Accounts

Officer in the scale of Rs.2375-3500 on 1.6.1989. As such, according to the respondents, he is not entitled for the arrears on that account under the FR 17 *ibid*. The applicant has filed rejoinder as well.

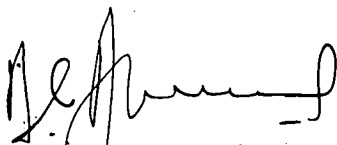
4. We have examined the material on record carefully. As per order dated 17.7.1992 passed in OA No.1317/87, this Tribunal had struck down the provisions in the DAAS Rules, 1982 and the notification dated 4.9.1990 whereby the two duty posts of SAS Accountants/Junior Accounts Officers Grade-II in the office of the Commissioner of Police, Delhi, mentioned at S.No.12 in the Schedule to the said rules have been excluded from the service. Consequently, the applicants in that OA were deemed to belong to the DAAS and it was also ordered that they would be entitled to all the benefits of the members of that Service. Vide Office Memorandum dated 25.4.1990, Annexure A-6, SAS Accountant/Junior Accounts Officers with three years regular service in the grade were accorded the functional scale of Rs.2000-3200 with effect from 1.4.1987. It was also provided that arrears accruing from 1.4.1987 will also be payable to the concerned official. As per order dated 10.11.1993, Annexure A-2, applicant was promoted from the post of Junior Accounts Officer to that of the Assistant Accounts Officer in the functional grade of Rs.2000-60-2300-EB-75-3200 (Group 'B' Gazetted) with effect from 1.4.1987. In our view, since it was only a functional scale and as all Junior Accounts Officers and SAS Accountants fulfilling the eligibility conditions were allowed the benefit of arrears, it is not just and proper to deny the same to the applicant. He is held to be entitled to arrears on account of his placement in the functional scale of Rs.2000-3200

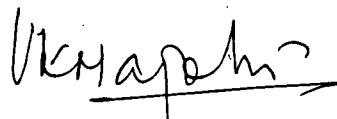
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with effect from 1.4.1987.

5. Vide Annexure A-1 dated 4.6.1993, the applicant was promoted to the post of Accounts Officer in the scale of Rs.2375-3500 with effect from 1.6.1989 only on notional basis. We find that the applicant has actually not worked on that post and, therefore, had been accorded promotion with effect from 1.6.1989 only on notional basis. Having not actually worked on the post of Accounts Officer, he would not be entitled to arrears of pay and allowances between the period 1.6.1989 to 3.6.1993. He would be entitled to pay and allowances in the pay scale of Rs.2375-3500 as Accounts Officer with effect from ~~1~~⁴.6.1993 when his promotion orders were issued vide Annexure A-1. The respondents are directed to make the payment of arrears as directed within a period of three months from the date of service of this order.

6. Present OA is disposed of in the above terms. In the circumstances of the case, there will be no order as to costs.


(ASHOK AGARWAL)
CHAIRMAN


(V.K. MAJOTRA)
MEMBER(A)

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