

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./T.A. NO. 2296 /1996 Decided on : 12.3.1997

(A)

Andrew Verity Liddle ... Applicant(s)

(~~xxxxxx~~ In person ~~xxxxxx~~)

versus

U.O.I & ors. ... Respondent(s)

(By Shri Madhav Panikkar, Advocate)

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THE HON'BLE SHRI Justice K.M. Agarwal, Chairman

THE HON'BLE SHRI N.Sahu, Member(A)

1. To be referred to the Reporter ~~or not~~ ? Yes
2. Whether to be circulated to other Benches of the Tribunal ? No

For

**(K.M.AGARWAL)
CHAIRMAN**

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2296/96

NEW DELHI THIS THE 12th DAY OF MARCH, 1997. (5)

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.N.SAHU, MEMBER(A)

Andrew Verity Liddle
S/o Late Shri Theodore Victor Liddle
R/o C.II/80, Moti Bagh
New Delhi-110021
(APPLICANT IN PERSON)

.... Applicant

vs.

1. The Union of India,
through the Cabinet Secretary
to the Government of India
Rashtrapati Bhawan
New Delhi-110001.
2. The Secretary to the Government of India
Ministry of Home Affairs.
North Block
Central Secretariat
New Delhi-110001.
- 3 Shri K.Padmanabhaiah, IAS
The Secretary to the Government of India
Ministry of Home Affairs,
North Block
Central Secretariat
New Delhi-110001.
4. The Secretary to the Government of India
Ministry of Personnel, Public Grievances &
Pensions, (Department of Personnel and Training)
North Block, Central Secretariat
New Delhi-110001.

.... Respondents

(BY ADVOCATE SHRI MADHAV PANIKKAR)

ORDER

MR.JUSTICE K.M.AGARWAL, CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has, inter alia, claimed two main reliefs of promotion to the post of Director General, Central Reserve Police Force with effect from 1.7.1996 and pay fixation at Rs.8,000/- with retirement benefits on that basis with effect from 1.10.1996.

2. Briefly stated, the applicant was undisputedly an I.P.S.Officer belonging to the Madhya Pradesh cadre. He was on deputation with the Central Government and

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holding the post of Additional Director General, CRPF in the scale of Rs.7300-100-7600 since 17.6.1994. On a vacancy being created in the post of Director General, CRPF, he was served with the order dated 11.9.1996 (Annexure II) and directed to "perform the current duties of Director General, CRPF in his present grade." While so discharging his duties, he retired from service with effect from 1.10.1996. As he was otherwise competent to hold the said post of Director General, possessed all the essential qualifications for the post and was also the senior most I.P.S. Officer, he claimed his regular promotion to the said post and the pay of Rs.8,000/- per month attached to the said post w.e.f.1.7.1996, when the vacancy in the said post had occurred. He further claimed refixation of his post retirement benefits on that basis. The claim was denied by the respondents by asserting in paragraphs (viii) & (ix) of their counter that:

" For empanelment all the officers of a particular batch are considered by a Selection Committee at a time and based on its recommendations the ACC approves empanelment of the officers found suitable. Such officers whose residual service is less than one year on the date of the meeting of the Selection Committee are excluded from consideration. The case of the applicant for empanelment to hold DG level posts at the Centre was taken up alongwith other IPS officers of his batch in January,96. However, as he was due for superannuation on 30.9.96 his name could not be considered for empanelment and therefore there was no need to scrutinise his service records. The claim of the applicant that his service records are excellent is, therefore, not relevant."

Being aggrieved, the applicant has approached this Tribunal for the said reliefs.

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3. After hearing the applicant in person and the learned counsel for the respondents, we are of the view that the stand taken by the respondents for denying the said claims of the applicant is not sustainable in law. The hierarchy of posts in Supertime Scale given in Rule 3(1) of the Indian Police Service(Pay) Rules, 1954 would show only 3 posts of DIG, IG and DG in different pay scales. No post of Additional D.G. or its pay scale is shown in the said Rules. It, therefore, appears from the nomenclature and the pay scale given to the applicant that the post of Additional D.G. was treated as a post equivalent to the post of D.G. The averments of the respondents in paragraph (vi) of their counter that "selection and appointment to the post of DG at the Centre is in two stages. Initially the officers who are eligible for consideration for promotion to the rank of DG are considered for empanelment to hold DG level posts at the Centre" are also suggestive of the fact that the post of Additional D.G. is treated as a post equivalent to that of a D.G. Accordingly, in the first selection made in the year 1994, the applicant was empanelled and promoted to the post of Additional D.G. with effect from 17.6.1994. At the second stage of selection in January 1996, he was not considered because "he was due for superannuation on 30.9.1996". (See paragraphs (viii) & (ix) of the counter). This according to us was erroneous. The learned counsel for the respondents could not show us any statutory rule, or even executive instructions to justify the averment that "officers whose residual service is less than one year on the date of the meeting of the Selection Committee are excluded from consideration." Any executive instruction or guide-line, even if existing, cannot

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be allowed to prevail on the ground of unreasonableness, which may be judged from the very fact that the applicant was ordered to "perform the current duties of Director General, CRPF" (Annexure II), but denied the salary of the post, which was a fixed amount of Rs.8,000/- per month.

4. The post of D.G. is a selection post. In 1st stage of selection held in 1994, the applicant was found fit for selection and accordingly empanelled and also promoted as Additional D.G. We have already found that the post of Additional D.G. is a post equivalent to the post of D.G. but the applicant had to be considered at the second stage of selection, which was not done. Yet he held the post of D.G. with effect from 11.9.1996 and continued to hold the post till the date of his retirement. We are, therefore, of the view that he must be deemed to have been promoted to the post of D.G., CRPF with effect from 11.9.1996 and accordingly entitled to the fixed salary of Rs.8,000/- per month from that date. As a necessary consequence of this, the applicant's retirement benefits deserve to be calculated and refixed on the basis of his salary of Rs.8,000/- per month for the post of D.G. that he held on the date of his retirement.

5. In the result, this application succeeds and it is hereby allowed. The respondents are directed to treat the applicant as having been promoted to the post of D.G. with effect from 11.9.1996 on a fixed pay of Rs.8,000/- per month. Accordingly they are further directed to pay the difference of his

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salary between 11.9.1996 and the date of retirement,
as also to refix his retirement benefits on that basis
and to pay him his arrears or difference of the amount
of pension etc. within a period of 2 months from
the date of receipt of a copy of this order. The claim
for interest and/or any other ancillary relief is
rejected. In the circumstances of the case, -we direct
the parties to bear their costs as incurred.

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(K.M.AGARWAL)
CHAIRMAN

N.SAHU
(N.SAHU)
MEMBER(A)

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