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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2827/97

IN

New Delhi: this the 30<sup>th</sup> day of January, 2001.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN(A).

HON'BLE MR.KULDIP SINGH, MEMBER (J)

P.N.Kapoor,

Dy. Director Establishment-II,

Research Design and Standard Organisation,

Lucknow,

R/o A-C, 924 Vasant Kunj,  
New Delhi.

.....Applicant.

(Applicant in person)

Versus

Union of India,  
through

1. The Secretary,

Ministry of Railways,  
Rail Bhawan,  
New Delhi.

2. The Director General,

Research Design & Standards,  
Organisation,

Lucknow.

(By Advocate: Shri K.R.Sachdeva) .... Respondents.

ORDER

S.R.Adige, VC(A):

Applicant impugns respondents' orders dated 1.1.97 (Annexure-A1) and dated 25/29.9.97 (Annexure-A2). He seeks pay and allowances of the post of Deputy Director for the period 26.7.84 to 31.12.85 as also special pay attached to the post for the duration he discharged the duties and responsibilities of that post. He also seeks consequential benefits including refixation of retiral dues with arrears thereon.

2. Heard both sides.

3. Respondents in their replies to paras 4.6

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to 4.11 of the OA admit that applicant was detailed to lookafter the duties of Dy. Director (Estt.) even before 26.7.84 and continued as such till he retired on superannuation on 31.1.89. They have however denied him the grade pay of Dy. Director on the ground that at the time of his promotion as Dy. Director on 26.7.84, he had not completed the 8 years of regular service prescribed under the Recruitment Rules and he was therefore not entitled to such promotion.

4. In our considered view, when respondents themselves admit that applicant discharged the duties and responsibilities of the post of Deputy Director during the period 26.7.84 to 31.1.89, he is entitled to the emoluments (including pay and special pay) attached to that post for the aforesaid duration. We are supported in our view by the Hon'ble Supreme Court's ruling in Selvaraj Vs. L.G. (JT 1998 (4) SC 500) Island Port Blair & Ors. setting aside the CAT decision rejecting a very similar claim wherein Shri Selvaraj, a Primary School Teach who was called upon to lookafter the duties of Secretary (Scounts) had claimed the salary for that post for the duration he had so worked. Their Lordships held

"Consequently on the principle of quantum meruit, the respondents authorities should have paid the appellant as per emoluments available in the aforesaid higher pay scale during the time he actually worked on the said post of Secretary (Scounts) though in an officiating capacity and not as a regular promote..... It is made clear that the payment of the aforesaid

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difference amount of salary shall not be treated to amount to any promotion given to the appellant to the said post."

5. Applying the aforesaid ruling to the facts and circumstances of the present case, which squarely covers the same, this OA succeeds and is allowed to the extent that respondents are directed to release to applicant the pay and allowances (including special pay) of the post of Dy. Director for the period 26.7.84 to 31.1.89, less what has already been paid to him. Applicant's retiral benefits should also be recalculated accordingly and paid to him along with arrears. These directions should be implemented as expeditiously as possible and preferably within 3 months from the date of receipt of a copy of this order. No costs.

*Kuldeep*  
( KULDEEP SINGH )  
MEMBER (J)

*Arifali*  
( S.R. ADIGE )  
VICE CHAIRMAN (A).

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