

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
OA 1127/1994
New Delhi, this 25th day of April, 1995

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri O.P. Vij
Office of the Chief Engineer
NSGP, CPWD, B Block, Curzon Road Barracks,
New Delhi .. Applicant
By Shri N. Ranganathaswami, Advocate

versus

Union of India, through

1. Secretary
M/Urban Development
Nirman Bhawan, New Delhi
2. Director General of Works
CPWD, Nirman Bhawan, New Delhi
3. The Chief Engineer
NSGP, CPWD, B Block, Curzon Road Barracks
New Delhi .. Respondents
By Shri K. Banerjee, proxy for Shri Madhav Panickar,
Advocate for the respondents

ORDER (oral)

This OA has been filed for a direction to the respondents to give increment dues on crossing the Efficiency Bar (EB) from 1.10.89 and for refixing the pay accordingly. Interest has also been claimed.

2. It is the case of the applicant that he was eligible to be considered for crossing of EB on 1.10.89 but the respondents have allowed him to cross the EB only on ~~1.10.91~~ ^{1.10.90}. It is argued that as per the relevant Government of India's order under FR 25 regarding EB, the DPC for assessing the eligibility of the officers should have been held in the month of July, 1989 but as far as the applicant is concerned, this time schedule had not been adhered to. Further, as per orders of the Government, in case of decision of not allowing the employee to cross EB, formal communication should be sent to the government servant. No such communication was given to the applicant. It was also argued that the DPC conducted

later had apparently taken into account reports subsequent to the year 1989, which would be against the relevant instructions. (9)

3. The learned counsel for the respondents countered the above argument stating that the time schedules are indicated only as guidelines. Non-communication of the decision of not allowing the applicant to cross EB at the scheduled time can not justify the plea for allowing increment from that date. It was admitted that there was a belated consideration by the DPC. This had arisen due to the non-completion of records. Ultimately, the DPC could decide the case only in January, 1991.

4. Reference was made to para 5.3 of the reply filed, which reads as under:

"That in reply to para 5.3, it is stated that the respondent did not allow the applicant to cross EB in the year 1989, they were required to review the assessment made after period of one year i.e. 1990 and communicate the result of the review to the applicant. However, as his EB case had already been delayed due to incomplete records and his subsequent transfer, the DPC could decide his case only in January, 1991. Since the DPC had decided to consider his performance report for one more year, the meeting of the DPC could only be held again only on 3.5.1991 after the additional report had been obtained."

5. A perusal of the above reply does not clearly bring out as to which reports were considered by the DPC. It is also not clear whether any DPC met in the year 1990 or whether the first DPC met only in January, 1991. In any case, as per Government of India's instructions, under FR 22, DPC which is convened after a gap of time following the date on which the government servant became due to cross EB, should consider only those CRs which would have been considered had the DPC been held as per the prescribed time

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schedule. In other words, the first DPC which met after the year 1989, should have taken into account only the report which the DPC would have considered had the meeting taken place in July, 1989.

6. In the circumstances, the respondents are directed to check the first first DPC proceedings held after July, 1989 and examine as to which were the CRs that were taken into account. If any CRs later to March, 1989 had been considered, a review DPC should be constituted for reassessing the case of the applicant by taking into account the relevant CRs only. Such an action should be completed within 3 months from the date of receipt of a copy of this order. In case only the relevant CRs had already been taken into account in the first DPC, as above, the applicant should be advised suitably within this period.

7. The learned counsel for the applicant then raised the issue regarding interest on arrears to be paid in case such arrears become due. I note that calculation would be too involved in arriving at the interest. In the circumstances, I direct that in the eventuality of increment @ Rs.40/- p.m. having to be granted from 1.10.89, interest may be calculated only on the amount of Rs.480/- (additional amount of basic pay for the period of one year) for the period from 1.10.89 till the arrears, as due, are finally paid. Interest may be paid @ 12% per annum.

8. The OA is disposed of as above. No costs.

P. J. Thiruvengadam

(P.T.Thiruvengadam)
Member(A)
25.4.1995

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