

19

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./TXX No. 2404 of 1994 Decided on: 12-8-94

Shri N.P. SinghApplicant(s)

(By Shri R.L. Sethi Advocate)

Versus

U.O.I. & AnotherRespondent(s)

(By Shri N.S. Mehta Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2404 of 1994

New Delhi this the 12th day of August, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri N.P. Singh
R/o 17/12, Subash Nagar,
Delhi-110027.

...Applicant

By Advocate Shri R.L. Sethi

Versus

1. Union of India
through Superintending Engineer,
Coordination Circle (Civil),
C.P.W.D.,
New Delhi-110 002.
2. Deputy Director of Administration,
(Ministry of Human Resource Development)
Department of Education,
A-39, Navodaya Vidyalaya Samitee,
Kailash Colony,
New Delhi-110 048.

..Respondents

By Advocate Shri N.S. Mehta

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The applicant who is a Junior Engineer in the Central Public Works Department is aggrieved that the respondents have not correctly fixed the pay of the applicant by their order dated 23.5.1991 fixing his pay at Rs.1640/- with effect from 1.1.1986 with date of next increment as 1.11.1996, (Annexure A-1 to the application). His other grievances are that he has not been allowed special pay of Rs.80/- per month that was being paid to the applicant in his parent department from the date of deputation with the second respondent with effect from 26th July, 1994 and that he has not been paid deputation duty allowance at the rate of 10% as he was placed on deputation

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from his last posting at Chandigarh. He has also alleged in this application that he has not been paid transfer T.A., tuition fee of Rs.160/- for the period from April, 1994 to July, 1994, conveyance bill of Rs.86/-, Rs.204/- arrears of Additional Dearness Allowance for the period from 1.7.1994 to 28.7.1994 and penal interest at the rate of 18%.

2. Although the applicant has prayed for multiple reliefs in this application, the main grievance appears to be regarding the incorrect fixation of pay. The applicant alleges that the respondents have fixed the pay of some of his juniors, namely, S/Shri Gulshan Sharma and Jai Ram Yadav by which, although their pay was fixed at Rs.1640/- on 1.1.1986 as in the case of the applicant, they have been given higher pay at Rs.1700/- from 1.4.86 and 1.2.1986 respectively by fixing the dates of increments accordingly as 1.4.86 and 1.2.86, whereas the applicant's pay has been fixed at Rs.1640/- with effect from 1.1.1986 and Rs.1700/- with effect from 1.11.1986 on the next date of increment. It is on this account that the applicant alleges that his juniors have been granted higher pay and, therefore, prays that his pay may also be stepped up on par with his junior at Rs.1700/- with effect from 1.4.1986 and not with effect from 1.11.1986 as fixed in his case by the respondents.

3. The respondents have strongly contested the claim of the applicant. They have pointed out that position in respect of pay fixation in respect of Shri Gulashan Sharma and Jai Ram Yadav actually stands changed on the revision of pay fixation by the order of the respondents in their cases by which the pay of S/Shri Gulashan Sharma was refixed at Rs.1640/- with effect from 1.1.1986 and also

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fixing his date of next increment as 1.1.1987 instead of 1.11.1986. Similarly in the case of Jai Ram Yadav also his pay was fixed at Rs.1640/ with effect from 1.1.1986 and his date of next increment raising his pay to Rs.1700/- was 1.1.1987 and, therefore, the applicant's claim that his juniors are drawing more pay is misconceived and not correct.

4. In the rejoinder affidavit, however, the applicant has again cited the instances of two other juniors, namely, S/Shri V.N. Agarwal and Rajeshwar Tyagi alleging that their pay has been fixed in such a manner that they draw Rs.1700/- with effect from 1.3.86 and 1.2.1986 respectively. As the respondents have no opportunity to contest this point, the applicant cannot raise these new cases at the rejoinder stage. It is open to him to make a separate representation citing these cases. It is possible that just as in the case of two other juniors their pay was refixed, in these two cases also cited by the applicant in the rejoinder, the respondents would have so refixed their pay if their had been any error in the fixation. In view of the fact, the respondents have said that S/Shri Gulshan Sharma's and Jai Ram Yadav's pay have been revised and they are not drawing higher pay from the applicant, there is no substance in the grievance of the applicant. If there is any instance of any other junior drawing higher pay, it is open to him to make suitable representation in this behalf to the respondents.

5. Regarding the other claims of the applicant, the respondents have contested these claims and after hearing the arguments and perusing the records, the following position emerges:-

(i) In regard to the special pay, it is seen that the

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23

applicant's contention is not tenable as the special pay for planning work is admissible only so long as the applicant is engaged in the planning work in the division office and once he is transferred from that post, he will not be entitled to such special pay(planning allowance).

(ii) In regard to his transfer order posting him to Chandigarh Central Circle, it is seen by the order dated 24th August, 1993, that the applicant was directed to join Chandigarh after 31.12.1993. Although the applicant submitted his joining report as late as on 15.6.1994, he was not allowed to join duty. It is stated by the respondents that the transfer order of the applicant was not against any vacancy of JE in the Circle Office at Chandigarh and as there was no vacancy, the applicant was returned back to Delhi and he was never attached with Chandigarh Central Circle. I am unable to appreciate the contention of the respondents in this behalf. It is not disputed that there was a transfer of the applicant to the Delhi Circle Chandigarh and that he was also relieved on 24.8.93. It is also a fact that he had reported at the new place although belatedly on 15.6.1994. There is no record to show that his transfer order has been cancelled before his reporting to the Chandigarh Circle office. In view of this, there is no force in the contention of the respondents that he did not join that office and he was requested to report back to the Delhi Office. The respondents had initiated action for transfer of the applicant. The applicant's transfer has not been cancelled subsequently as there was no vacancy in the circle to which he was originally transferred. (TA advance has also been sanctioned to him). In any case, the fault does not lie with the applicant if he is transferred to a place where

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there is no vacancy and, therefore, in the light of this the applicant cannot be denied the transfer T.A. admissible to him.

(iii) Regarding his claim for deputation duty allowance at 10% instead of 5%, the order transferring him to the borrowing office was issued by the respondent on 19.7.94 and it states that the applicant has been working as Junior Engineer(Civil) in Superintending Engineer, C.P.W.D. Unit in Delhi. This is borne out by the fact that when the applicant's joining was not accepted by the Chandigarh Office, he reported back to the Superintending Engineer, Delhi Coordination Central Circle by the order of the Superintending Engineer, annexed as Annexure R-5. Although he was against directed to report to Chandigarh in a vacant post by the order dated 8.7.94 to the Superintending Engineer, Coordination Circle, there is nothing on record to show that he rejoined at Chandigarh and, thereafter he was taken on the strength of Chandigarh Central Circle (Planning Chandigarh). In view of this, his deputation to the borrowing organisation was issued on the basis of his working in the office of the Superintending Engineer, Delhi Coordination Central Circle, I.P. Bhavan, i.e., at Delhi (Annexure A6) and, therefore, since the deputation has materialise from an office in Delhi to the office of the borrowing organisation at Delhi, the applicant will not be entitled to 10% deputation allowance instead of 5%. Accordingly, his claim for deputation allowance at 10% of his pay is rejected.

(iv) As regards the claim for tuition fee for the period from April, 1994 to July, 1994 and arrears of DA, the respondents have stated that these claims have been decided as per Annexure R-6. Although the payment has not been

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denied, in the rejoinder the applicant submits that the payment of tuition fees and arrears of DA was made to him only on 31.5.1995 and he claims interest for the delayed payment.

(v) Regarding the conveyance arrears claimed by the applicant, the respondents have submitted that the matter is for the borrowing department. In view of this, this claim of the applicant cannot be considered, as the borrowing organisation is not a party in this application.

6. In the conspectus of the above discussion, the application is partly allowed only to the extent of directing the respondents to pay the transfer allowance which is due to the applicant on the basis of his joining at Chandigarh on 15.6.1996 and on the basis of the bills preferred by him in this behalf in accordance with the rules for such payment. ^{Prayer for} The other claims including interest for delayed payment ~~are~~ rejected. There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

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