

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.342/94

(9)

New Delhi, this the 7th day of Oct '94

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

Shri S.P.Ghosh
s/o late Shri Binoy Krishna Ghosh,
EAD/AE, C.W.C.,
r/o 113/L, Sector IV,
MB Road, Pushp Vihar, New Delhi.

..Applicant

(By Advocate Shri KL Bhandula)

Vs.

1. Union of India, through:
Secretary to the Govt. of India,
Ministry of Water Resources,
New Delhi.

2. Chairman, C.W.C.,
Sewa Bhavan, RK Puram,
New Delhi.

..Respondents.

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

The applicant was working as Supervisor (now designated as Junior Engineer) in the Central Water Commission. He was sent on deputation to the National Water Development Authority on 6-8-83 and rejoined the parent department on 8-10-86 on repatriation. His pay was fixed at Rs.2120/- in the scale of Rs.2000-3500, on his repatriation corresponding to the post of Extra Assistant Director/Assistant Engineer (EAD/AE) to which post he was promoted on ad hoc basis on his return from deputation.

2. It is the case of the applicant that some of his juniors were promoted on ad hoc basis as EAD/AE during the period when he was away on deputation. The applicant was not given a chance to come back on promotion during this period. Also, the so called ad hoc promotion continued indefinitely for years and the ad hoc promotees were regularised from November, 1989 without break vide order dated 31-7-92. By the

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same order the applicant was also regularised from November, 1989 and the applicant has been shown at Sl.No.49 and juniors to him like Shri B.Dutta were shown correctly at lower places. Shri Dutta was shown at Sl.No.53 even though he had been promoted on ad hoc basis as EAD/AE during the period when the applicant was away on deputation while the applicant was posted on ad hoc basis only on return from deputation.

3. The applicant has a grievance that his pay was fixed at Rs.2120/- in the pay scale for EAD/AE whereas on this date his junior Shri Dutta was allowed Rs.2240/-. The higher pay fixed for Shri Dutta had arisen due to the posting of Shri Dutta on ad hoc basis earlier to the applicant. The applicant made a representation for stepping up of his pay vis-a-vis Shri Dutta in October 1992. This representation was rejected by the respondents on 15-2-93 merely stating that Shri Dutta was drawing higher pay because of his earlier promotion on ad hoc basis.

4. This O.A. has been filed for a direction to refix the pay of the applicant in the grade of EAD/AE from 8-10-86 at the level of pay drawn by his junior Shri Dutta and for all consequential benefits.

5. This O.A. came up for hearing for the first time on 22-2-94. After that it was listed on nine occasions. Notice was issued twice by registered post on 28-2-94 and 8-8-94 to the respondents but there has been absolutely no response. Even on date no one is appearing on behalf of the respondents. Hence, ^I~~we~~ propose to dispose of this O.A. based on the arguments advanced by the learned counsel for the applicant and the details furnished in the application.

6. The learned counsel for the applicant relies on the orders passed by this Tribunal in O.A.1521/89

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decided on 28-2-90 followed by a number of orders mainly based on the reasoning given in the first order. In similar situations stepping up of pay in relation to the immediate juniors who ^{was} ~~are~~ promoted during the period the applicant was on deputation and allowing the benefits of such higher fixation from the date the applicant was promoted on return from deputation, has been ordered.

7. In the grounds advanced, the applicant has pleaded that an officer out of his regular line should not suffer by forfeiting the officiating promotion which he would have otherwise received had he remained in his regular line. The applicant has also referred to the rules position with regard to the benefit of "next below rule" and has prayed for invocation of such a benefit in his case.

8. I note that as per the applicant's submission he was not considered for ad hoc promotion during the period when he was away on deputation. Such an ad hoc promotion has continued for years. Hence following the reasoning given in the case cited above, the relief claimed has to be allowed. Since the respondents have not chosen to file a reply, they are directed to verify the facts and check whether the applicant could have been promoted at the time his junior Shri B. Dutta was promoted on ad hoc basis. It is needless to add that the applicant's claim at the time of promotion of Shri B. Dutta will have to be examined with reference to the applicant's seniority and also the position of those senior to the applicant. In case the applicant's claim for promotion even on ad hoc basis on the date when his junior Shri Dutta was promoted is established, the fact of the applicant being on deputation at that period should not be

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held against him and the applicant extended the benefits as prayed for. The respondents are directed to complete the above exercise within three months from the date of receipt of this order. If for any reason, the claim of the applicant cannot be sustained the applicant should be advised by way of a speaking order about his ineligibility within the time limit prescribed as above.

9. O.A. is disposed of accordingly. No costs.

P. J. Rao
(P.T. THIRUVENGADAM)
Member (A).

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