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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 42 of 1994

New Delhi 31st October, 1994.

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

Shri M.L. Mahna ,
r/o House No.2,
Kiran Vihar,
Delhi-110092

.....Applicant.

By Advocate Shri U.S. Bisht.

Versus

1. Union of India,
through Secretary,
Ministry of Defence,
Sena Bhawan,
New Delhi-110011.

2. Engineer-in-Chief,
Army Headquarters,
Kashmir House, DHQ P.O.
Rajaji Marg,
New Delhi-110011.

3. Controller of Defence Accounts,
'G' Block,
New Delhi-110011

.....Respondents.

By Shri P.H. Ramchandani.

JUDGMENT

In this application, Shri M.L. Mahna has impugned the order dated 16.11.93 (Annexure-A1) rejecting his claim for stepping up of pay equal to the level drawn by his junior.

2. Shortly stated, the applicant and his next junior, one Shri M.M.M. Sharma were promoted, and were posted to new Units to fill up the existing vacancies there. The applicant was posted to Vishakhapatnam, while his junior Shri Sharma was posted to Ambala. Shri Sharma was relieved on

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receipt of posting orders and joined the new Unit on 21.9.82, while the applicant was retained by his previous Unit in the public interest upto 5.2.83 and could join the new Unit on 21.2.83. The applicant contends that whereas Shri Sharma's pay was fixed at Rs.1100/- w.e.f.21.9.82, and earned his next increment on 1.9.83, his own pay was fixed at Rs.1100/- only on 21.2.83, and he earned his next increment on 1.2.84. He contends that the anomaly occurred without any fault on his part and prays that his pay be fixed on the date his junior's pay was fixed on the higher post.

3. I have heard Shri U.S.Bisht for the applicant and Shri Ramchandani for the respondents. Shri Bisht has relied on the ruling in the case 'A.L.Narsimha Rao Vs. Secretary Central Board of Excise & Customs, New Delhi & others, 1989(1)ATC 607, in support of his prayer.

4. Shri Ram Chandani's argument has considerable force that merely because a person is relieved a few months later than his junior to join a new post on promotion, and the junior Officer thereby begins to draw emoluments in the higher scale a little earlier, does not necessarily mean that the senior officer has been subjected to hostile discrimination or unequal treatment, warranting stepping up of pay. The applicant was retained against the post in public interest, and even if he was relieved to proceed on promotion with some delay, that is an incident in service, and does not give him a right to claim stepping up of pay. The ruling

in A.L.Narsimha Rao's case (supra), relied upon by the applicant does not lay down any law and moreover is distinguishable from the present case, because there, all the officers were directed to take over their new place of posting by a certain date (10.6.86), whereas in the present case, no such direction was issued. Hence that case does not help the applicant.

5. That apart, the respondents in their reply have also pointed out that the stepping up could be ordered only if the anomaly was directly as a result of the application of F.R. 22-C. In the instant case, however, even in the lower post of the applicant's junior Shri M.M.M.Sharma was drawing higher pay, and hence that condition is also not satisfied, and there is no other rule under which such stepping up of pay can be ordered.

6. Further more, if the applicant had any grievance that he ^{was} not being relieved to join his new post on promotion, he should have represented to the authorities then itself, but there are no materials to indicate that he did so. From the applicant's rejoinder, it appears that the earliest representation from him in this regard is his D.O's letter dated 4.1.87, which is nearly four years after the cause of action arose. The party seeking enforcement of a claim must be vigilant on this score, and not sleep over the same.

7. In view of all that has been stated above,

there are no good grounds to interfere in this matter and this application is dismissed. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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