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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1400/94

New Delhi, this the 17th day of February, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Shri Surendra Kumar Gambhir,  
s/o late Shri Ram Lal,  
136, Nehru Nagar, Opp. Sub-Jail,  
Roorkee(U.P.)

and working as Sr. Stenographer  
in the Central Building Research Institute,  
Roorkee(U.P.)

... Applicant

By Advocate:- Shri K.N. Bahuguna

Vs.

1. Council of Scientific & Industrial Research,  
Rafi Marg, New Delhi  
through its Joint Secretary(Admn.), CSIR
2. The Director,  
Central Building Research Institute,  
Roorkee(U.P.)

... Respondents

By Advocate: Shri V.K. Rao

JUDGEMENT

The applicant joined as Junior Stenographer with Respondent No.2 in the office of Structural Engineering Research Centre, Roorkee, a unit of CS&IR. Subsequently to he was promoted to the post of Senior Stenographer in the same unit and w.e.f. 1.1.89 transferred to SERC. The grievance of the applicant is not fixing the pay after giving 4 advance increments allowed to incumbent Jr. Stenographer though in service and passed Shorthand proficiency test at 100 wpm and after passing the shorthand proficiency test at 120 wpm there is further award of 4 advance increments. He has not been given the benefit of 4 and 8 advance increments and therefore he is suffering in the pay since considerable time. According to applicant his pay should be fixed at Rs.380/- w.e.f. 1.2.76 and at Rs.428/- w.e.f. 1.2.77 in the pay scale of Rs.330-560. The applicant made

the representation to the respondents to which a reply was given by CS&IR by the letter dated 9.2.94 addressed to Director, CBRI, Roorkee that the benefits of advance increments are not admissible to the applicant as the benefits of advance increments are admissible only on the basis of the proficiency test conducted at the time of initial appointment and not on the basis of proficiency tests conducted subsequently.

2. The applicant filed this application in July, 1994 and he prayed for the grant of the reliefs that the pay of the applicant be fixed at Rs.370/- w.e.f. 15.1.76 and an annual increment of Rs.10/- be allowed in the scale of Rs.330-560 w.e.f. 1.2.76 raising his pay to 380/-p.m. and further his pay be fixed at Rs.416/- w.e.f. 6.1.77 and an annual increment of Rs.12/- in the scale of Rs.330-560 w.e.f. 1.2.77 raising his pay at Rs.428/-p.m.

3. On notice the respondents contested this application and stated that the application is hopeless, barred by time as the cause of action relates to the period of more than 3 years before coming into force of the Appellate Tribunal Act, 1985 or from the date of the notification u/s 14 of the said Act. It is stated in the reply that the applicant is not entitled to any advance increments as these increments are given at the time of initial appointment to the fresh recruits after 16.4.66 as per circular dated 18.2.67. The said circular has no application in the case of the applicant who passed the proficiency test in shorthand while in employment.

(11)

4. The applicant has also filed the rejoinder reiterating the facts stated in the application.

5. We heard the learned counsel for the parties and perused the records. It is relevant to refer to Circular No.1(32)/64-E.III dated 18.2.67 and that is quoted below:-

" COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH  
RAFI MARG

No.1(32)/64-E.III

NEW DELHI-1, the 18.2.1967

From

The Secretary  
Council of Scientific & Industrial Research

To

The Heads of All National Labs/Instts.

Subject: Grant of higher initial pay to the Junior  
Stenographers in the CSIR.

Sir,

I am directed to state that the Governing Body of the CSIR at its meeting held on 16.4.66 has approved of the following recommendations of the Finance Sub-Committee:

1. Stenographers who qualify at a speed of 80 wpm in shorthand may be given the minimum of the scale of Rs.130-300.
2. Those who qualify at a speed of 100 wpm in shorthand may be given higher start of 4 advance increments.
3. Those who qualify at a speed of 120 wpm in shorthand be given a higher start of 8 advance increments in the prescribed scale of Rs.130-300.

The decision of the Finance Sub-Committee is primarily with reference to future recruits. However, since this will put future recruits at advantage, compared to the serving stenographers, it has been decided, in consultation with F.A. to CSIR that the pay of serving stenographers who have qualified at a speed of 100 wpm prior to 16.4.1966 and whose pay falls below Rs.150/- p.m. may be raised to Rs.150/- p.m. with effect from 16.4.1968. Similarly the pay of those serving stenographers who qualified at a speed of 120 wpm prior to 16.4.1966 and whose pay falls short of Rs.176/- should be raised to Rs.176/- p.m. w.e.f. 16.4.1966. Annual increment in both cases would accrue after a full year from the date of such fixation.

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(12)

The existing Junior Stenographers, who have not qualified at a speed of 100 wpm or 120 wpm in shorthand, may be allowed to take the test alongwith outside candidates to show the proficiency for earning the benefit of a minimum of Rs.150/- and Rs.176/- with effect from the date of the test.

Yours faithfully,  
sd/- R.C. Biswas,  
Deputy Secretary. "

Another circular was issued by the CS&IR on 2.2.1968 and that is reproduced below:-

No.1(32)/64-E.III

New Delhi-11, the 2nd Feb., 1968.

From: The Secretary  
Council of Scientific & Industrial Research

To

All Heads of all National Laboratories.

Subject: Grant of higher initial pay to Junior Stenographers in CSIR.

Sir,

I am directed to refer to this office letter No. 1(32)/64-E.III dated 18.2.67 on the above subject and to state that it has been decided, in consultation with the Financial Adviser to Council of Scientific and Industrial Research, to extend the benefit of advance increments to serving Junior Stenographers who qualify or have qualified at a speed of 100 wpm and 120 wpm in shorthand. Serving Junior Stenographers who have qualified or who may qualify at a speed of 100 wpm shall be allowed two advance increments or Rs.150/- p.m. whichever is favourable to them. Similarly, those who qualify at a speed of 120 wpm in shorthand shall be allowed four increments (including two already drawn) for having qualified at a speed of 120 wpm or Rs.176/- p.m. whichever is favourable to them.

This benefit will be admissible to them from from 16.4.1966, the date of approval of the scheme by the Governing Body at its meeting held on 16.4.66.

Those Jr. Stenographers who have not yet qualified at a speed of 100 and 120 wpm will be allowed to take the test to whom the proficiency in shorthand once in a year 1st week of January for earning the benefit of advance increments. The advance increments so earned will be admissible from the first of the month following that in which the prescribed examination or test is completed.

This may be brought to the notice of all Jr. Stenographers and their pay fixed accordingly.

Yours faithfully,  
Sd/- O.P. Khanna  
Under Secretary

Copy to: All Sections/Officers in Central Office  
Ref. File No. 76(3)66-ET

Another circular was issued on 3.6.74 on the CSIR (Revised Pay) Rules, 1974. The relevant para 3 is relevant which is reproduced below:-

"Wherever rules exist for grant of advance increments to particular categories on acquiring higher proficiency etc., Junior Stenographers on showing higher speed in shorthand, they will continue."

6. It appears that on 17.9.79, the CSIR has modified the circular issued in 1967, 1968 and 1974 to the effect that Governing Body approved of the grant of one or two advance increments only in place of four and eight advance increments to the future appointees to the posts of Junior Stenographers and to the existing Junior Stenographers (Ordinary Grade) who hereafter qualify at a speed of 100 and 120 wpm respectively in shorthand. This decision would take effect from 3.8.1979.

7. A perusal of the aforesaid circular will show that the contention of the respondents that the advance increment benefit at that time four and eight to Junior Stenographers who passed the shorthand proficiency test in the speed of 100 and 120 wpm is available only to recruits at the time of appointment and not subsequently is incorrect. It appears that the practice is prevalent of giving advance increment and the applicant has cited the case of R.P. Singh Rore who had been given the benefit of advance increment on both occasions. Now coming to the facts the applicant passed the proficiency in shorthand of 100 wpm on 15.1.76 and of 120 wpm on 16.1.77, his

14

effective date of increment as per circular referred to above of 1968 and 1974 would be 1.2.76 and 1.2.77 and the applicant shall be entitled to the grant of four and eight advance increments respectively. The applicant joined as Junior Stenographer on 21.2.74 and his pay on 1.2.75 will be Rs.340/- and the benefit of 4 advance increments on his passing the proficiency in shorthand of 100 wpm will raise his pay to Rs.380/-. Similarly, his pay on 1.2.77 would be Rs.380/- and by the grant of 4 further advance increments his pay would be Rs.428/-. The anomaly in fixation of pay while giving advance increment has arisen because on each occasion i.e. on 1.2.76 as also on 1.2.77 the only increment of the applicant has fallen on the effective date of advance increment for proficiency test of shorthand. The increments due in normal course in the scale of pay were not drawn and the respondents have rejected the representation only on the ground that the advance increments to the Junior Stenographers are admissible only at the time of their initial appointment and not on the basis of the proficiency test conducted subsequently. This observation in the impugned order dated 9.2.94 cannot be sustained because of the circular referred to above (supra).

8. The learned counsel for the applicant has also referred to certain cases where the benefit of advance increments was given to similarly situated Junior Stenographers and one of them is Shri R.P. Singh Rore. The respondents in their counter have averred that merely because there was wrong fixation done in



the case of Shri Rore, the same cannot be extended to the applicant. The respondents have also stated that the fixation in the case of Shri Rore was done in the year 1975-76 while the applicant was serving in SERC.

This reason cannot be accepted in view of various circulars issued by CSIR for the grant of benefit of advance increments to Junior Stenographers. The respondents have not filed any supplementary affidavit that the circular by which the advance increments were admissible to Junior Stenographer who was discontinued at any time before 1979 i.e. when the applicant has already cleared the proficiency test of shorthand in the year 1976 and 1977.

9. The respondents have raised the point of limitation that the applicant has sought the judicial review after about 11 years. The question of limitation does not arise in this case because the representation of the applicant has been disposed of on 9.2.94 when the representation was finally rejected. Moreover, wrong fixation of pay is continuing cause of action and the applicant has tried his level best citing certain examples in the representation asking for giving the benefit of advance increments admissible on the basis of proficiency test. The applicant, therefore, cannot be said to be in any way not approached the Tribunal for judicial review after 11 years as argued by the learned counsel for the respondents.

10. In view of above conspectus of facts and circumstances, the application is allowed and the respondents are directed to fix the pay of the applicant

as on 1.2.76 at the stage of Rs.380/- and as on 1.2.77 at the stage of Rs.428/-. The applicant shall be entitled to refixation of pay and also refixation of pay w.e.f. 1.1.1986 and would also be entitled to consequential benefits of arrears of pay and other allowances as admissible at that time. In the circumstances, the respondents to comply within 3 months from the date of receipt of copy of this judgement. Parties to bear their own cost.

*J. P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)

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