

Central Administrative Tribunal, Principal Bench

Original Application No.171 of 2000

New Delhi, this the 16th day of March, 2001

Hon'ble Mr. Kuldip Singh, Member (J)

Hon'ble Mr. M.P. Singh, Member (A)

13

1. Mrs. Kiran Devi
w/o late Shri Ranbir Singh
r/o 756/46, Tri Nagar
Delhi-35

2. Shri Jasbir Singh
s/o late Shri Ranbir Singh
r/o 756/46, Tri Nagar
Delhi-35

- Applicants

(By Advocate - Shri Shyam Babu)

Versus

1. Chief Secretary
Now Govt. of NCT Delhi
5, Sham Nath Marg
Delhi-54

2. Commissioner of Police
Police Headquarters
I.P. Estate,
New Delhi-2

3. Deputy Commissioner of Police
(Provisioning and Lines) Delhi
Old Police Lines,
Delhi

- Respondents

(By Advocate - Shri Harvir Singh)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicants who claim to be legal heirs of late Shri Ranbir Singh, have filed this O.A. seeking the following reliefs:

- "a) Call for the records of the case and direct the respondents to grant to the applicant full pay/ allowances/ other benefits w.e.f. 17.2.86 till 29.7.98 or w.e.f. 17.2.86 to 23.6.89; and
- b) Direct the respondents to pay to the petitioner an interest @ 18% p.a. on the amount computed in prayer (a) hereinabove."

h

2. Facts in brief are that late Shri Ranbir Singh was appointed as Head Constable (Ministerial) w.e.f 18th June, 1977 in Delhi Police. He was to be considered for promotion between the period 17.2.86 to 23.6.89. Since he was not promoted, he filed an O.A.567/93 which was allowed on 14.12.98 with the following directions:

14

"In the result the O.A. succeeds and is allowed to the extent that the impugned order dated 5.2.93 is quashed and set aside. The case is remanded back to respondents for strict implementation of the Tribunal's direction dated 15.10.92 extracted above, by means of a reasoned order within three months from the date of receipt of a copy of this order. In the event that respondents find late Shri Ranbir Singh fit for promotion as ASI (Ministerial) between the period 17.2.86 to 23.6.89, his legal heirs will be entitled to such consequential benefits as flow therefrom."

3. In compliance with the order passed in O.A.567/93, the department considered the case of late Shri Ranbir Singh and issued promotion order vide Annexure 'D'. It was stated in the promotion order that the period from 17.2.86 to 20.7.98 would be treated as proforma promotion and during that period, no pay and allowances of the post of ASI (Min) would be drawn but the period will otherwise count towards fixation of pay, increments and seniority etc. Applicants claims that non-allowing of arrears of pay and allowances is illegal and they are entitled for the same from the date of promotion of late Shri Ranbir Singh till the date he worked under respondents. Shri Ranbir Singh had expired on 22.7.98 while in service. Order at Annexure 'D' also shows that Head Constable late Shri Ranbir Singh whose name had been admitted to promotion list 'D' w.e.f. 6.11.85, would deem to have been promoted to officiate as ASI (Min) w.e.f. 17.2.86.

ku

4. Learned counsel for respondents has pleaded that as per Government of India instructions contained in F.R.17(1) "an officer begins to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post if the charge is transferred before noon of that date. If the charge is transferred after noon, he commences to draw them from the following day." In accordance with these instructions, respondents' counsel pleaded that the competent authority was fully authorised to pass an order with regard to arrears of pay and allowances and that the same was rightly withheld by the respondents.

15

5. Shri Shyam Babu, learned counsel for the applicant referred to a judgement reported in 1991 (4) SCC 109, Union of India & ors. vs. K.V. Jankiraman & ors., para 25 of which reads as under:

"25. We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that F.R. 17(1) will also be applicable to such cases."

6. Learned counsel for the applicant submitted that in this case also when late Shri Ranbir Singh was not considered for promotion, it was not his fault rather it was the fault of the respondents who kept him away from performing duty on a higher post when he was very much willing to work on the promoted post. When the DPC erroneously rejected the case of promotion of later Shri Ranbir Singh, he had filed a O.A.567/93 before the Tribunal and the Tribunal in its judgement dated 14.12.98

ku

found that his grievances were justified and therefore, directed the respondents to consider his case for promotion. It was also directed that if late Shri Ranbir Singh was found fit for promotion as ASI. (Ministerial) between the period 17.2.86 to 23.6.89, his legal heirs will be entitled to such consequential benefits as flow therefrom. (16)

7. It was in compliance of the orders in O.A.567/93 that respondents have considered and passed an order granting promotion to late Shri Ranbir Singh w.e.f. 17.2.86

8. Now as far consequential benefits are concerned, learned counsel for the respondents submitted that grant of arrears of pay and allowances are not the only consequential benefits. There are other consequential benefits like fixation of pay, increments, seniority etc. which have already been granted and this covers up granting of all consequential benefits. It is submitted that since the competent authority has decided to withhold the arrears of pay and allowances, therefore, the same are not to be paid.

9. To our mind, the submissions made by learned counsel for the respondents have no merit because the consequential benefits after promotion are not restricted to pay fixation in a notional manner, particularly so when late Shri Ranbir Singh was kept away from performing duty because of the fault of the department itself and it was not the fault of late Shri Ranbir Singh. We are of the opinion that arrears of pay and allowances are important constituents of the consequential benefits and

ku

legal heirs of late Shri Ranbir Singh are entitled to the same. Since as per Annexure 'D', late Shri Ranbir Singh has been granted promotion w.e.f. 17.2.86, therefore, we hold that the applicants are entitled to the arrears of pay and allowances w.e.f. 17.2.86 till 20.7.98, the date upto which late Shri Ranbir Singh worked under respondents.

17

10. Under these circumstances, we allow the O.A. with a direction to respondents to release the arrears of pay and allowances to the applicants for the aforesaid period in accordance with rules and instructions on the subject, within a period of two months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

/dinesh/