

Central Administrative Tribunal, Principal Bench

Original Application No. 173 of 2000

New Delhi, this the 21<sup>st</sup> day of May, 2001

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

(15)

Azad Singh  
S/o Shri Tek Ram  
Asstt., Sports Authority of India  
Jawaharlal Nehru Stadium  
New Delhi

Residential Address

Azad Singh,  
G-2, School Road  
Near Dispensary  
Uttam Nagar,  
New Delhi-51

....Applicant

(By Advocate: Shri G.D. Bhandari)

Versus

1. The Director General

2. The Secretary  
(Both)

Sports Authority of India  
Jawaharlal Nehru Stadium  
Lodi Road, New Delhi-3

....Respondents

(By Advocate: Shri M.K. Gupta)

ORDER

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

Applicant has filed this OA under Section 19 of the Administrative Tribunals Act seeking following reliefs:

- 8.1 Set aside and quash the decision of the Secretary/SAI, A-1, whereby he has rejected the case of the applicant for absorption in a higher scale as UDC Gr. Rs. 1400-2300 instead of Gr. Rs. 1200-2040 and further even refused to protect applicant's pay on his absorption in the SAI w.e.f. 1.4.88 in the higher pay scale;
- 8.2 Declare that absorption of the applicant in the lower pay scale of Rs. 1200-2040 than the higher pay scale of Rs. 1400-2300, to which he was promoted w.e.f. 26.10.87 as SI/UDC in his parent Department, is arbitrary and illegal; and
- 8.3 Direct/command the Respondents to deem the

for

applicant as having <sup>-2-</sup> been absorbed under them in Gr. Rs. 1400-2300 instead of Rs. 1200-2040, re-fix his pay with all consequential benefits of arrears and seniority etc."

(16)

2. The applicant is aggrieved by the action of respondents whereby they have refused to absorb him in Gr. Rs. 1400-2300 w.e.f. 1.4.88 instead of Gr. Rs. 1200-2040, as given by them. Facts in brief, as alleged by the applicant, are that he was working as ASI(M)/LDC under the Directorate of C.R.P.F., Ministry of Home Affairs. In the year 1982, he joined the Sports Authority of India (in short 'SAI') on deputation on usual deputation allowance where he continued to work and his term of deputation was extended from time to time. While the applicant was working on deputation with respondents, he was promoted in his parent department to the post of UDC in the pay scale of Rs. 1320-2040 w.e.f. 26.10.87 vide an order issued on 8.1.85. He was absorbed in SAI as UDC in the pay scale of Rs. 1200-2040 vide Annexure A-2. His option for permanent absorption in SAI was also taken from him vide Annexure A-3. A letter was issued vide Annexure A-4 whereby the order of permanent absorption of the applicant in SAI w.e.f. 1.4.88 on usual terms and conditions, was issued.

3. The grievance of the applicant is that he had been absorbed in SAI in a lower pay scale of Rs. 1200-2040 whereas he had already been promoted in his parent department in the pay scale of Rs. 1400-2300. The applicant alleges that the termination order issued by his parent department vide which he was promoted as UDC, had not been communicated to him nor the same was given effect to and the benefits resulted on his promotion have not been extended to him and he remained ignorant of the same.

JK

17

It is submitted that consequent to his promotion as SI/UDC, the respondents have fixed the applicant's pay in the pay scale of Rs.1400-2300, fixing his pay at Rs.1480/- w.e.f. 26.10.87 including Rs.10/- as personal pay to be absorbed in future increment. The respondents also promoted the applicant as Assistant in the pay scale of Rs.1400-2300 in the SAI w.e.f. 28.2.92 after his permanent absorption and accordingly his pay was fixed as Assistant. It is pleaded that the applicant had been making representations that since he had already been promoted as SI/UDC in his parent department in the scale of Rs.1400-2300, therefore, his absorption in SAI in the lower scale of Rs.1200-2040 as UDC, is not justified. Applicant's case was discussed in a meeting held under the chairmanship of DG, SAI on 18.12.97 wherein it was found that the applicant could not be absorbed in the pay scale of Rs.1400-2300 as it would adversely affect certain other employees. Applicant states whereas similarly placed persons have been absorbed in the equivalent grade and their pay have been protected, so he should also have been absorbed in the grade of Rs.1400-2300 since he had already been promoted in his parent department. As such, he has prayed for the reliefs quoted in para (1) above.

4. Respondents are contesting the OA. They have submitted that the OA is gross abuse of process of law and the same is liable to be dismissed. It is stated that applicant was working as ASI/LDC in his parent Deptt. i.e. CRPF, carrying the pay scale of Rs.260-400. His services were taken on deputation basis by the SAI w.e.f. 1.4.84 and pay scale attached to the post of LDC was granted to him with normal deputation allowance. Vide

JK

(8)

order dated 26.11.86, the applicant was promoted on deputation basis as UDC in the scale of Rs.1200-2040 w.e.f. 17.11.86. Subsequently, he was given an option to be absorbed as UDC vide order dated 28.10.88, which was accepted by him. In terms of his option for absorption in the said grade, vide order dated 8.11.88, the applicant was absorbed as UDC w.e.f. 1.4.88 in the scale of Rs.1200-2040 with the specific terms and conditions that his seniority in SAI will be fixed in accordance with DOPT OM dated 29.5.86 and pay will be fixed as per the instructions contained in Ministry of Finance OM dated 8.4.76. Now after having accepted his absorption in the scale of Rs.1200-2040, the applicant cannot be allowed to resile from the said absorption in the scale of Rs.1200-2040 on the ground that subsequent to the said absorption, the CRPF has revised the pay scale of SI/UDC from Rs.1200-2040 to Rs.1400-2300. Besides that, it is also stated that the applicant has already taken the complete pensionary benefits from CRPF and has not been granted the benefit of the revised pay scale by the CRPF, which has not been objected by the applicant.

5. Respondents have also pointed out that there is no pay scale of Rs.1400-2300 in the post of UDC in SAI which is equivalent in status to the post of SI. Therefore, the applicant could not have been absorbed in the scale of Rs.1400-2300. It is submitted that the applicant opted the pay scale of Rs.1320-2040 in his parent office and as such, there was no financial loss caused to him, as alleged. As regards letter of promotion being not communicated to the applicant, it is stated that the same is a matter of record.

kr

(9)

6. We have heard learned counsel for the parties and gone through the records.

7. The main grievance of the applicant is that the order vide which he was given promotion as UDC in his parent department, was though received in respondents' office, yet it was not communicated to him intentionally so that the applicant may be absorbed in a lower pay scale. Learned counsel for the applicant argued that had he been informed at the appropriate time that he had been promoted in his parent department, then perhaps the applicant would not have opted for being absorbed in the office of respondents. Learned counsel for the applicant submitted that since applicant's consent/option for being absorbed in the office of respondents had been obtained by deceitful means by not communicating the promotion order to him, therefore, his absorption is illegal and he is entitled to be given the pay scale of the post which he was given in his parent office i.e. Rs.1400-2300.

8. In reply to this, learned counsel for the respondents submitted that the applicant has been adequately compensated. He referred to various representations made by the applicant and stated that in all the representations, for example, representations at Annexure A-10, A-11 and A-12, the applicant had been asking for sanctioning of five advance increments and these representations were made during the year 1992 and 1996 but the applicant had never asked for grant of pay scale of Rs.1400-2300. Even in the last representation at Annexure A-13, the applicant had again asked for

K

(20)

sanctioning of five advance increments. Learned ~~counsel~~ for the respondents pointed out that applicant had been duly compensated by giving five advance increments, as stated in para 4.19 of the counter, which fact is not controverted by the applicant.

9. As regards grant of pay scale of Rs.1400-2300, it has been pointed out that in the respondents' organisation, there is no pay scale of Rs.1400-2300 for the post on which applicant was absorbed and as such, the question of granting this pay scale to the applicant does not arise.

10. In our view also, the applicant all throughout had been asking for five advance increments which had already been granted to him. Except, his latest representation wherein he had asked for the grant of pay scale which had been considered vide Annexure A-8, and the committee had given specific opinion that since there was no pay scale of Rs.1400-2300 in the office of respondents for the post on which the applicant was absorbed, so at the best his salary could be protected. Thereafter, we don't find that the applicant might have any legitimate grievance for which any relief can be granted.

11. As regards applicant's allegation regarding obtaining option of the applicant by deceitful means by not communicating letter of applicant's promotion, we find that this argument has no merit as such like orders are communicated in a routine manner to the concerned employee and even otherwise, the applicant could have come to know about his promotion from his former colleagues and might

(21)

have not exercised the option to be absorbed. We don't feel that there would have been any specific motive of any of the officer of SAI to withhold this information from the applicant with a view to obtain his consent/option for absorption.

12. In the result, we find no merit in this OA, which is accordingly dismissed. No costs.

( M.P. Singh )  
Member (A)

Kuldip Singh  
( Kuldip Singh )  
Member (J)

/dinesh/