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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.1946 of 2000

New Delhi, this 22nd day of March, 2001

HON'BLE SHRI M.P.SINGH, MEMBER(A)

S.K.Mandal
Extra Assistant Director
Central Water Commission
Shram Shakti Bhavan
New Delhi-110066 ... Applicant

(By Advocate: Shri K.L.Bhandula)

versus

1. Union of India, through
Secretary to the Government of India
Ministry of Water Resources
Shram Shakti Bhavan
New Delhi-110001
2. The Chairman
Central Water Commission
Sewa Bhavan
R.K.Puram
New Delhi-110066 ... Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER(Oral)

By filing this OA, the applicant has sought relief by praying for direction to the respondents to grant him backwages/arrears arising out of the fixation of pay as Extra Assistant Director on his retrospective promotion with effect from 30.9.1985 by quashing order dated 4.9.1998.

2. The brief facts of the case are that the applicant joined as Junior Engineer in Central Water Commission on 6.7.1974 and furnished his certificate of being Scheduled Caste and this fact is recorded in his Service Book. Thereafter



the applicant was posted in the field in the remote and difficult areas of Jammu and Kashmir and the Eastern Region of the country. One Shri B.K.Roy who was immediate junior to the applicant was promoted to the post of Extra Assistant Director on regular basis with effect from 5.8.1985 and later on promoted to the rank of Assistant Director on regular basis with effect from 18.12.1997. The applicant came to know about the promotion of his immediate junior and started making representations. It was only in January 1995 that he was shown as Scheduled Caste in the seniority list. The seniority of the applicant was corrected in October 1997 vide order dated 14/15-10-1997 and he was promoted as EAD/AE retrospectively from the date of promotion of Shri Bhimma Rao Vaddi with effect from 30.9.1995 and not from 5.8.1985, the date from which Shri B.K.Roy was promoted. However, the applicant was promoted from the date Shri B.K.Roy was promoted vide order dated 28.1.1998/4.2.1998 on regular basis with effect from 30.9.1985 indicating therein that all consequential benefits such as pay and allowances will be paid. The respondents have stated that as per the instructions issued by the DoP&T vide their O.M. dated 10.4.1989, the pay of the applicant has to be fixed under F.R.27 at the stage it would have reached had he been promoted from the date the officer immediately below him was promoted but no



arrears would be admissible. Hence the words "with all consequential benefits such as pay & allowances" mentioned wrongly in the earlier order were corrected in terms of DoP&T O.M. dated 10.4.1989.

3. Heard both the learned counsel for rival contesting parties and perused the record.

4. During the course of the arguments, the learned counsel for the applicant drew my attention to the judgement of the Tribunal dated 7.11.1997 in OA.2442/1996. He submitted that the present OA is squarely covered by this judgement. On the other hand, the learned counsel for the respondents relied upon the judgement of the Hon'ble Apex Court in the case of Paluru Ramkrishnaiah and others Vs. UOI and another (AIR 1990 SC 166). On a perusal of the judgment of the Hon'ble Apex Court (supra), it is seen that the judgement is not applicable to the present OA. The present case is covered by the judgement of the Tribunal dated 7.11.1997 in OA.2442/96.

5. It is not in dispute that the applicant being a SC candidate, was due for promotion from the date his junior was promoted i.e. 30.9.1985. It was due to the omission of the respondents that the applicant could not be promoted on due date and was wrongly prevented to discharge the duties



of a higher post and for this reason the applicant cannot be made to suffer. The same view is held by the Coordinate Bench of the Tribunal in the aforesaid OA.No.2442/1996. The plea taken by the applicant for payment of arrears of pay is, therefore, justified and he is entitled for all consequential benefits including pay and allowances from the date he is promoted as EAD/AE.

6. In view of the aforesaid reasons and also the judgement of the Tribunal dated 7.11.1997 in OA.No.2442/19996, the order dated 4.9.1996 is quashed and set aside and the respondents are directed to pay arrears of salary to the applicant with effect from the date he has been promoted as EAD/AE on notional basis i.e.30.9.1985, within a period of three months from the date of receipt of a copy of this order.

7. The OA is disposed of as above. No order as to costs.


(M. P. Singh)
Member(A)

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