

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA No. 249/94

IN

DA No. 1710/93

New Delhi this 16 th day of December 1994

Hon'ble Mr. S.R. Adige, Member(A)

Mohammad Shamsheer
s/o Shri Irshad Hussain
NCRB, East Block-7
R.K.Puram, New Delhi
(By Advocate G.D.Chopra)

....Applicant

Versus

1. Secretary
Ministry of Home Affairs
Govt. of India
North Block,
New Delhi-1.
2. Director
National Crime Records Bureau
East Block 7, R.K.Puram
New Delhi.

... Respondents

(By Advocate Shri M.K. Gupta)

JUDGEMENT (By ^{Pronouncement} ~~Circulation~~)

Hon'ble Mr.S.R. Adige, Member(A)

In this Review Application bearing No. 249/94 filed by Shri Mohammad Shamsheer on 8.7.94, it has been prayed to review the judgement dated 8.6.94 in DA 1710 of 1993.

2. In that DA, the applicant prayed that the respondents be directed to allow him revised pay scale of Rs. 1600-2660 attached to the post of DPA-A, corresponding to the post of Sub-Inspector w.s.f.14.11.91, the date from which he was regularly appointed as SI of police in the National Crime Records Bureau (NCRB), together

16

with payment of arrears. The application was dismissed by the impugned order on the ground that the Finance Ministry's OM (Annexure 2 to the OA) revising pay scales of various posts in the NCRB including that of SI from Rs. 1320-2040 to Rs. 1600-2660 w.e.f. 11.9.89 was applicable to existing incumbents and as the applicant admittedly was promoted as SI only on 14.11.94, he could not be termed as existing incumbent. Furthermore, it was noticed that the applicant had not named even a single person junior to him who had been granted the benefit of the revised pay scale, which had been refused to the applicant.

3. In the review petition, it has been averred that the said OM of the Finance Ministry has not been read as a whole. It is contended that redesignation means that there is no creation of a new post but it is only nomenclature of the post which has been changed and this nomenclature and pay scale should be revised from 11.9.89. It is argued that this means that during the period of implementing the OM, when the applicant was promoted as SI on regular basis, he is entitled to revised pay scales. ~~That argument is incorrect.~~ Secondly it has been averred that in the impugned judgement, an error has been committed in holding that the applicant has not named even a single person junior to him who has been granted benefit of revised pay scale, which has been denied to the applicant because it is contended that in para 4.9 of the OA, persons absorbed as SI as latest as 30.12.91 and 3.11.91 have been given revised pay scales. In this connection, attention has been invited to copy of office order dated 8.10.92 at A-3 of the OA, on the basis of which it has been argued that persons junior to the applicant in this list have been given revised pay scales, which has been denied to the applicant.

Thiraly, it has been argued that an error has been committed in not considering whether the applicant was Head Constable on the date of implementation of the order i.e. 8.10.92 and the applicant once having been promoted as Sub Inspector on regular basis cannot be given the pay scale of Head Constable as the same amounts to his reversion. It has been averred that a further error has been committed in not noting that it was a post of Sub Inspector which had been re-designated as DED and DPA and all the persons holding that post or promoted as Sub Inspector, are liable to be given one of the re-designated nomenclature as there is only one cadre of Sub Inspector as per statutory rules. Furthermore, it has been stated that there was no DPC for EDP scale and even on the deemed date, Sikandar Ali was not an SI (Sub Inspector). On 14.11.91, 3 persons were appointed as Sub Inspectors and one Shri Mital was taken on EDP side. It ^{is} ~~was~~ stated that other persons were promoted or appointed as Sub Inspectors after the applicant's promotion has been given revised pay scale.

4. Upon notice to the respondents, they filed their reply to the RA, contesting the same and stating that the Review Application did not require any review. Thereupon the applicant filed his rejoinder reiterating the contents of his original application. Shri Chopra was heard for the applicant and Shri M.K. Gupta for the respondents. Shri Chopra also filed written submissions in support of Review Application.

5. Taking the first point, admittedly, the applicant was promoted as Sub Inspector on 14.11.91. The Home Ministry's circular (Annexure-2 to the OA) on the subject of rationalisation of EDP posts in N.C.R.B., refers to Finance Department's OM dated 11.9.89 and conveys sanction of the Government for re-designation

98

and revision of pay scales of 164 EDP posts in the N.C.R.B. It is noted that while the number of such re-designated posts continues to be 164, there has been inter-se re-distribution. For instance, 47 posts of constables in the existing scale of ^{in Grade A (1150-1500) (36 nos) and in} Rs. 800-1150 have been re-designated as DEO Grade-B (Rs. 1350-2200) (19 Nos), 10 posts of Head Constables in the scale of Rs. 950-1400 + Rs 80 special pay have been re-designated into ^{in (bhis)} DEO post Grade-C (Rs. 1400-2300) and 63 posts of Sub Inspectors (Rs. 1320-2040) have been re-designated as DEO Grade-D (Rs. 1600-2600) (3 posts) & DEO Grade-A (Rs. 1600-2600) (57 posts). This letter further states that the pay of the existing incumbents in the revised scale would be fixed as per F.R. 23 read with F.R. 22 (a) (ii) and the revised scale of pay would take effect from 11th September 1989. The respondents have correctly pointed out that when a pay scale is introduced with retrospective effect, the grade in which a particular officer was on that date determines his fitment, and as EDP scales for N.C.R.B. were sanctioned only on 6.5.1991 on which ^{the} the particular date the applicant admittedly was only a Head Constable (KPO) and not a Sub Inspector, he cannot claim fitment in the revised scale admissible for sub inspectors. The Government order which introduced the EDP scales against 10 posts of Head Constable (KPO) sanctioned 6 posts of DEO Grade-C in the scale of Rs. 1400-2300 and therefore the respondents correctly re-designated him as DEO Grade-C corresponding to his pre-revised designation as Head Constable. In fact this point has been emphasised in the impugned judgement also and under the circumstances, it cannot be said that any error of record has been committed in holding that the applicant has no automatic claim for fitment in the re-designated scale of Sub Inspector, and his claim for promotion as DEO Grade-D (Rs. 1600-2660) can be considered only after following the prescribed DPC procedure.

19

6. In this connection, the respondents' counsel also drew attention to para 5 of the reply, wherein it has been stated that the applicant has been promoted from DEO Grade-C to DEO Grade-D (Rs. 1600-2660) on ad-hoc basis for 6 months or till the appointment is made on regular basis whichever is earlier w.e.f. 2.11.94.

7. In so far as the applicant's contention that persons junior to him had been given scale earlier, while he was ignored, he has drawn attention to an order dated 8.10.92 at A.3. However, it is noticed that the headings of the column at page 1-2 of this order dated 8.10.92 appear to be somewhat different from the headings at page 3 of that order. ^{Whether the} 2 sheets of the order relate to the same order or not is not wholly free from doubt. However, I do not propose to go into the matter further because what has been stated in the impugned order is that the applicant has not named even a single person junior to him, who had been granted the benefit of the revised pay scale which had been denied to him, and a perusal of the original application shows that the observation made in the impugned order is correct, because nobody has been named in the original application who is junior to him who had been granted revised pay scale which had been denied to him. The original application contains only a vague assertion that other sub inspectors junior to him had been granted the revised scale, but none of those sub inspectors have been named in the original application, and under the circumstances the impugned judgement contains no factual error on this ground.

8. Mr. Chopra has also referred to the judgement in the case of P.K. Ramchander Iyer Vs. UOI AIR 1984 SC 541. This judgement states that ^{the} Articles 14, 16 & 31-D of the Constitution may be properly applied to cases of ^{unequal} scales of pay, ^{Based on} non-classification or irrational classification though, those drawing different scales of pay do identical work under the same employer. Manifestly, this ruling

has no application to the facts of the case because the ^{pay} for equal work has not been made here. The present case is one of fitment in ^{an} pay scale, consequent to re-designation of posts, and grant of revised pay scales with retrospective effect.

9. An order/judgement/decision of the Tribunal can be reviewed only in accordance with the provisions of order 47 Rule 1 of C.P.C. From the discussion above, it is clear that none of the grounds taken therein brings it within the scope and ambit of review as defined under order 47 Rule 1 CPC. Under the circumstances, this review application is rejected.

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

22.