

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A.No.49/95 IN
O.A.No.2252/93

NEW DELHI THIS THE 28th DAY OF February, 1995.

HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri K.C. Upadhyay,
Assistant Engineer,
Pancheshwar Hydrological
Observation Sub-Division,
Tanakpur (U.P.)

....Applicant

(By Advocate : Shri B.S. Mainee)

VERSUS

UNION OF INDIA, THROUGH

1. The Secretary,
Ministry of Water Resources,
Shram Shakti Bhavan,
Rafi Marg,
NEW DELHI.

2. The Chairman,
Central Water Commissioner,
Sena Bhavan,
R.K. Puram,
NEW DELHI.

....Respondents

(By Advocate : Shri Jog Singh)

JUDGEMENT

Hon'ble Shri B.K. Singh, Member (A)

This R.A.No.49/95 in O.A.2252/93 has been filed
against the judgement and order dated 20th October, 94.

In the O.A. the applicant had prayed for quashing
the impugned order at Annexure-1 and to fix the salary
of the applicant at Rs.650/- with effect from the
date from which his junior Shri R.S. Verma was fixed
at Rs.650/- i.e. the applicant should be paid salary
from September, 1980 and given other consequential

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benefits of increment and arrears, and he be deemed
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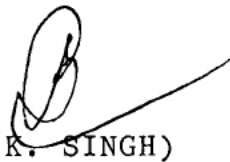
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to be promoted from the date his junior Shri R.S.Verma was promoted.

2. The applicant was on deputation when Shri R.S. Verma his immediate junior was promoted on an adhoc basis. A deputationist is entitled to proforma promotion in case junior to him is promoted on a regular basis. The juniors in the present case were not given regular promotion but were promoted on an adhoc basis. There is no dispute about the seniority. The applicant was appointed on regular basis earlier than Shri R.S. Verma. The applicant was regularised w.e.f. 26.12.83 and Shri Verma was regularised with effect from 31.12.93 as EAD/AD. The pay of his junior Shri R.S. Verma was stepped up with reference to the pay of his immediate junior in pursuance of this Hon'ble Tribunal's judgement dated 10.3.92 according to which Shri Verma was drawing a pay of Rs.680/-w.e.f. 9.12.81 (the date of his adhoc promotion with next increment due from 1.9.82 fixing the pay at Rs.710/-) whereas the applicant was drawing a pay of Rs.650/- w.e.f. 15.4.80 and Rs.680/- w.e.f. 2.8.82 and Rs.710/- w.e.f. 1.83. It is admitted that the applicant was drawing less pay as compared to his junior Shri Verma. The question of pay fixation at par would have arisen only when proforma promotion would have been given to the Review applicant when he was on deputation. The rule is that if one is not available and is on

deputation and his junior is promoted on regular basis an order issues "but for his deputation he would be eligible for promotion w.e.f. the date his junior is being promoted." Such a proforma promotion with this stipulation was not given to him. This facility, will not be available if a person is promoted in fortituous circumstances though junior on an adhoc basis and he draws a pay in the promoted post and even earns increment while working on an adhoc basis and gets subsequently regularised without any break, in continuation of his adhoc promoted and without any reversion to a lower post. Thus the claim of the applicant for arrears of pay and fixation of pay with Shri R.S. Verma and his junior is not legally sustainable. The increments have been earned by Shri Verma and his juniors while the applicant was drawing his basic pay plus D.A. including over-seas allowance in Kathmandu. He cannot have both the advantages of being on deputation and drawing allowances including over-seas allowance during his period on deputation and he can also earn increments as his juniors have done while working on an adhoc basis. This is not an anomaly in pay fixation but increased pay fixed on earned increments because of their own promotion on an adhoc basis and their regularisation subsequently with increments earned by them.

3. A review lies only when there^{is} an error apparent on the face of the record or when there is discovery of a new or important piece of evidence or document which can change the dimension of the judgement delivered in the O.A. or on some other sufficient or reasonable cause. These are the provisions contained in Order 47 Rule (1). This Review Application does not fall within the four corners of Order 47 Rule(1) and as such this application is summarily rejected under Order 47 Rule 4 (1) of the CPC.


(B.K. SINGH)
MEMBER (A)

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