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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 38/1989. DATE OF DECISION: 9-8-1991.

Shri Pritam Singh Gill Applicant.

V/s.

Union of India Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J).
Hon'ble Mr. S. Gurusankaran, Member (A).

Shri B.S. Mainee, counsel for the applicant.
Mrs. Raj Kumari Chopra, counsel for the respondents.

G. SREEDHARAN NAI R: JUDGMENT

While the applicant was working as Assistant Foreman in the scale of Rs.550 - 750, he was drawing a special pay of Rs.100/-, it being attached to the post in lieu of a higher pay scale. In the year 1983, the second respondent, Ordnance Factory Board, issued orders promoting the applicant as Foreman and posting him at Ordnance Factory, Muradnagar. It is alleged by him that since he was not in a position to move on promotion to Muradnagar, he submitted a representation on 8-12-1983 requesting that he may be posted at Kanpur itself on promotion or should be allowed to continue at Kanpur in the existing post, but his representation was rejected by the order dated 9-1-1984. The grievance of the applicant is that while fixing his pay in the grade of Foreman, the special pay of Rs.100/- that he was drawing while working as Assistant Foreman has not been taken into account. He prays for a direction to the respondents to refix his pay with effect from 6.2.1984 treating the special pay as attached to the scale of pay of Assistant Foreman.

2. It is pointed out in the application that in the case of Shri Unhavane, who was promoted from the post of Assistant Foreman to that of Foreman in the year 1983, his request for pending his transfer to Ambernath was accepted and his transfer was pended till he moved on such transfer on 1-4-1985. It is further pointed out that in fixing his pay, the special pay of Rs.100/- in the grade of Assistant Foreman was taken into account.

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and, as such, there has been discrimination so far as the applicant is concerned.

3. In the reply filed on behalf of the respondents, it is contended that the application is barred by limitation since the relief sought relates to an alleged grievance that arose in 1983. On the merits, it is contended that though a proposal was sent to the Controller of Accounts for stepping up of pay of the applicant with reference to that of Shri R.B. Unhavane, his junior, it was not agreed to as the conditions laid down in the O.M. dated 25.5.1983 issued by the Ministry of Home Affairs are not satisfied.

4. The preliminary objection raised on behalf of the respondents with respect to the bar of limitation has force. The grievance of the applicant relates to the fixation of his pay on promotion to the post of Foreman. The fixation was done in the year 1984 and, as such, the attack against the same in the present application filed in 1989, is barred by limitation.

5. On the merits too, the plea of the applicant cannot be accepted. It is not disputed that special pay of Rs.100/- is attached to the post of Assistant Foreman in lieu of a higher pay scale. However, since the applicant did not complete three years service in that grade, he cannot claim that the said special pay also should have been taken into account in the fixation of his pay in the cadre of Foreman. No doubt, while the pay of Shri Unhavane was fixed in the cadre of Foreman, the special pay was also taken into account, as he had completed three years service in the grade of Assistant Foreman.

6. It ^{was} submitted by the counsel of the applicant that on promotion and consequential posting at Muradnagar, the applicant submitted representations to enable him to continue in the existing post at Kanpur itself, and it was on account of the action of the respondents in rejecting that request that the applicant had to move and that otherwise, he would have been in a position to complete the period of three years in the grade

of Assistant Foreman. It is also emphasised that since a similar request by Shri Unhavane was accepted, he got the advantage of completing three years period. In these circumstances, counsel of the applicant pressed that it will be unjust and inequitable that while in the matter of fixation of pay of Shri Unhavane in the grade of Foreman, special pay has also been taken into account, it has not been done so far as the applicant is concerned. We are unable to accept this submission. Firstly, the applicant did accept the promotion and the posting at Muradnagar, though initially an attempt was made by him to continue at Kanpur. In the case of Shri Unhavane, the order of promotion issued in 1983 was actually cancelled since he was not willing to move on transfer on promotion. Thereafter, he was considered for promotion by the D.P.C. that was held in November, 1983 and his promotion was only with effect from 1-4-1985 on transfer from Kirkee to Ambernath. As such, there is no substance in the plea of the applicant that the promotion of Shri Unhavane in the cadre of Foreman was deferred at his request.

7. The question of stepping up of pay of the applicant in the grade of Foreman was duly considered by the Controller of Accounts, Calcutta in the light of the C.M. dated 25.5.83. It was on account of the fact that the conditions laid down in the aforesaid C.M. are not satisfied that the proposal for stepping up his pay was turned down.

8. It follows that the applicant is not entitled to any relief.

9. The application is dismissed.

Unhavane
9/8/1991
(S. GURUSANKARAN)

Member (A)

Dr S. S. Nair
9-8-1991
(G. SREEDHARAN NAIR)
Vice Chairman (J)

9-8-1991.