

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 811/89
T.A. No.

199

DATE OF DECISION 21.12.1990

Shri B.D. Mehta _____ Petitioner
Shri S.L. Lakhpal, _____ Advocate for the Petitioner(s)

Versus
Union of India _____ Respondent

Shri P.P. Khurana _____ Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I. K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

(AMITAV BANERJI)
CHAIRMAN
21.12.90.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.811 of 1989

Date of Decision: 21.12.1990.

Shri B.D. Mehta

...Applicant

Versus

Union of India

...Respondent

Coram

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the applicant : Shri S.L. Lakhpal,
Counsel.

For the respondent : Shri P.P. Khurana,
Counsel.

(Judgement of the Bench delivered by

Hon'ble Mr. I.K. Rasgotra, Member (A))

The short matter raised in this OA filed by Shri B.D. Mehta, under Section 19 of the Administrative Tribunals Act, 1985 relates to stepping up of his pay to the level of his junior on reversion to his parent cadre from an ex-cadre post held by him in the office of a Minister.

2. The relevant facts of the case are that the pay of the applicant Shri B.D. Mehta in Grade 'A' of Central Secretariat Stenographers Service was fixed at Rs.3050/- p.m. in the revised pay scale of Rs.2000-3500 w.e.f. 1.1.1986 (Annexure-A-1), while his immediate two juniors S/Shri S. Duraiswamy and M.N. Chhabra were fixed at Rs.3125/- p.m. in the same grade. The applicant is aggrieved by the continuous loss which he is suffering in pension, gratuity, leave salary after he retired on superannuation w.e.f.

30.4.1988.

3. The respondents have not disputed the facts of the case. However, they have submitted that Shri B.D. Mehta was on deputation to an ex-cadre post in the personal staff of various Central Ministers during the period from June, 1975 till January, 1985. He was accorded proforma promotion under the Next Below Rule (NBR) to the selection grade of Grade 'C' CSSS and Grade 'B' of CSSS between this period when his turn for regular appointment to these grades came up. The benefit of NBR however is not admissible in case of adhoc promotions made to fill up short-term/leave vacancies, as it is not practicable to call deputationists in case their turn come up for such adhoc promotions. The respondents have also conceded that such appointments on the personal staff of the Ministers are made in public interest and that it would not be desirable to recall an officer from such deputation. It was in these circumstances that the applicant was not offered adhoc promotion in 1981 when his turn came for adhoc promotion to Grade 'A' of CSSS. The applicant reverted from deputation on 16.1.1985 and was promoted as Grade 'A' Stenographer on adhoc basis from the same date. The respondents also submit that applicant's juniors S/Shri S. Duraiswamy and M.N. Chhabra were getting higher pay even in the prrevised scale as they were officiating on adhoc basis from 1981 in the higher grade. There is no rule which can protect the pay of the applicant in the parent cadre while he is working on an ex-cadre post outside the parent department with reference to the adhoc promotions made in the parent cadre. We have heard the learned counsel of both the

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parties. The learned counsel for the applicant had drawn our attention to a decision of the Principal Bench of the Tribunal in the case of Satish Kumar Vs. Secretary Ministry of Human Resource Development (Dept. of Education) & Ors. (OA-3/1985) decided on 1.5.1986. The operative part of the judgement of the Tribunal reads as under:-

"In the present case, the petitioner is not deprived of his seniority and on reversion to his Parent Office, his inter-se seniority vis-a-vis those who had officiated in the higher grade of Assistant would not stand disturbed. Even so, denial of higher pay as given to his juniors and benefit of increment in the higher grade would certainly result in permanent financial disadvantage to the petitioner at least for so long as he continues in the grade of Assistant. While it is true that the juniors who got the benefit of higher pay and increments in the higher grade did actually officiate in the grade of Assistant, which the petitioner did not, this happened as a direct result of the action of the respondents in not giving an option to the petitioner to revert to his Parent Office for officiation against short-term leave vacancies in the higher grade or officiating promotions. We have not been shown any rule which prohibits the deputationists being given such an option. Since the action of the respondents in the denial of this opportunity or option has resulted in serious financial disadvantage and pecuniary loss, it is held to be discriminatory and violative of Articles 14 and 16 (1) of the Constitution. Accordingly,

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the respondents are hereby directed to fix the pay of the petitioner in the scale of Assistant from the date of his reversion to his Parent Office at the stage at which his immediate junior was drawing pay by virtue of officiating in the said grade, with the date of next increment being also fixed as that of his immediate junior. He will, however, not be entitled to any arrears of pay for the period prior to his reversion to his Parent Office. No order as to costs."

We observe that the case before us is fully covered by the above judgement. It was the responsibility of the parent department to make an offer to the applicant when he was working in an ex-cadre post to return to the cadre if he wishes to work in higher grade on an adhoc basis. More so, when the adhoc arrangement continued for more than one year - i.e. almost for over four years. The denial of option to the petitioner has admittedly resulted in perpetual financial disadvantage to him by way of lower pension, gratuity etc.

In the facts and circumstances of the case, we order and direct that the applicant's pay should be fixed as Stenographer Grade 'A' at the level at which his juniors were drawing pay on 16.1.1985 by virtue of officiating in Grade 'A'. His date of next increment will also be fixed as that of his immediate junior. No arrears will be payable. The applicant shall also be entitled to all consequential benefits by way of revision of pension and other terminal benefits.

There will be no order as to costs.


(I.K. RASGOTRA)

21/12/1990
MEMBER(A)


(AMITAV BANERJI)

CHAIRMAN