

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. No. 190 of 1988

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Date of decision: 24-9-93.

M.C. Aggarwal.....Applicant.
vs

Union of India and another.....Respondent.

Coram:

The Hon'ble Mr Justice S.K.Dhaon,
Vice Chairman.

The Hon'ble Mr B.N.Dhoundiyal,
Member(A)

For the applicant: Applicant in person.

For the respondents: Proxy counsel for Mr.K.C.
Mittal.

JUDGMENT

(by Hon'ble Mr B.N.Dhoundiyal)

This Original Application has been filed by Mr M.C. Aggarwal, Assistant Engineer, working in the office of the Executive Engineer (Construction Division), New Delhi against order dated 2.6.1987 (Annexure A), whereby the respondents declined to pay interest on over-due payments on account of delayed grant of increment.

The main grievance made by the applicant are these:

- a) he was due to cross the efficiency bar with effect from 1.3.1983 but the actual orders were received only on 5.11.1986
- b) that he was eligible to cross the efficiency bar on and with effect

from 21.6.1983 and his pay was fixed as under:

<u>Date</u>	<u>Pay</u>	<u>Remarks</u>
1.3.83	845	Notional pay. No arrears admissible.
1.3.84	880	
1.3.85	920	Arrears allowed.
1.3.86	960	

3. It was not clear whether the arrears were not admissible from 1.3.1983 to 20.6.1983 or from 1.3.1983 to 29.2.1984. His representation was rejected by the impugned order dated 27.11.1986 on the ground that his case for crossing the Efficiency Bar with effect from 21.6.1983 was considered by the competent authority, who did not find him fit to cross the same from that date and that interest is not payable on arrears of pay/allowances. He has prayed for quashing of the impugned order dated 2.6.1987, whereby his request for payment of interest has been rejected and has asked for 20% interest per annum on delayed payment of increment.

4. The respondents have stated that the applicant became eligible to cross the Efficiency Bar only on 21st June, 1983, when he passed the departmental examination in accounts prescribed for AES, which took place from 15th to 20th June, 1983. The case of the applicant was examined by the competent authority and he was allowed to cross his efficiency bar with effect from 1.3.1984 with benefit of past service under F.R.25. Order dated 5.11.1986 clearly mentions that the arrears of pay would be allowed to him only

from 1.3.1984. This order also ultimately spelt out that he was fit to cross the efficiency bar @ Rs.110/- with effect from 1.3.1984 and with benefit of past service under F.R.25 with effect from 1.3.1983. This benefit of past service was only notional and hence he was allowed arrears of pay only with effect from 1.3.1984.

5. We have gone through the record of the case and heard the applicant in person as also the learned counsel for the respondents. The applicant has stated that the delay in issuance of the orders for crossing the Efficiency Bar was due to vindictiveness as certain complaints were lodged by him, regarding bribery at the higher levels. The learned counsel has drawn our attention to the counter wherein it has been clarified that such complaints were examined and were found without force.

6. F.R.25 provides for specific sanction of the competent authority to authorise crossing of the Efficiency Bar, in accordance with the procedure. For consideration of such cases of crossing of Efficiency Bar, the mode has been prescribed in Department of Personnel and Training O.M. dated 13.3.1989. Para 2.6. of the said O.M. is extracted below:

DW

Contd...P.4/-

"2.6 Crossing bar after being held up at that stage -

Where a Government Servant is held up at the EB Stage on account of unfitness is allowed to cross the EB at a later date as a result of subsequent review, his pay shall normally be fixed at the stage immediately above the EB. In case the competent authority purposes to fix his pay at a higher stage by taking into account the length of service from the due date of EB, the case should be referred to the next higher authority for a decision."

7. It is clear that the competent authority found him fit to cross the Efficiency Bar from 1.3.1984 only but he was given the advantage of the provisions of F.R.25 to take into account his notional service from 1.3.1983. In these circumstances, it cannot be said that the applicant has suffered due to undue delay or the delay was malafide. As admitted by him, arrears have been allowed to him from 1.3.1984 onwards.

8. The two requisites for an Assistant Engineer to be eligible to cross the Efficiency Bar are;

- (i) He should have passed the departmental test or should have been exempted; and
- (ii) Out of five Annual Confidential reports, immediately preceding the date on which he was due to cross the E.B., at least three reports, including the last one should not be less than 'good' and the remaining two should not be less than 'satisfactory'.

:-5:-

20th June, 1983 and was eligible to be considered for crossing the efficiency bar only with effect from 21st June, 1983. The delay was due to difficulty in getting the confidential reports, particularly for the period from 1.4.1981 to 14.3.1982. The efficiency bar committee considered the case in November, 1986 and came to the conclusion that, on the basis of service record, for the period 1977-78 to 1982-83, Shri Aggarwal was not fit to cross the efficiency bar w.e.f. 21st June, 1983. According to the existing instructions, at least one report in the post, to which an employee is promoted should be available before the D.P.C. is constituted. On that basis he could be recommended to cross the Efficiency Bar only with effect from 1st January, 1984. The benefit of past service has been allowed to the applicant for fixation of his pay.

9. We, therefore, hold that it is not a fit case, which calls for interference by this Tribunal and the Original Application is dismissed herewith. There will be no order as to costs.

B.N.Dhondiyal
(B.N.Dhondiyal) 27/9/93

Member(A)

S.K.Dhaon
(S.K.Dhaon)

Vice Chairman

/sds/