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IN THE CENTRAL ADMINISTRATIVE TRIBUNALS
PRINCIPAL BENCH

O.A. No. 2057/1988

Date of decision 21.1.1994

Hon'ble Mr. Sh. B.S. Hegde, Member (J)

Sh. H.S. Panwar,
Quarter No. C-58,
Krishi Vihar, New Delhi-48

... Applicant

(Present in person)

V/s

1. The Secretary,
Union of India through,
The Secy. Ministry of Information
and Broadcasting, Shastri Bhawan,
New Delhi
2. Union of India through the
Secy. Ministry of Personnel &
Public Grievances & Pensions, North
Block, New Delhi-110001
3. Union of India, through
The Secretary, Ministry of Finance,
(Deptt. of expenditure) North Block,
New Delhi-1
4. The Secretary, Indian Council of
Agriculture Research, Krishi Bhawan,
New Delhi

... Respondents

(By Advocate Sh. Jag Singh, counsel for the
Respondents 1 to 3)
By Advocate Sh. V.K. Rao, proxy counsel for
Sh. Sikri, counsel for the respondent No. 4)

O R D E R

(Hon'ble Sh. B.S. Hegde, Member (Judicial))

The applicant has filed this application under
Section 19 of the Administrative Tribunals Act, 1985
praying that a direction be issued to the respondents to
pay the applicant's bonus for the year 1985-86 which has
not been paid to him so far.

2. Applicant was appointed on 27.2.1981 in the Indian Council of Agricultural Research, New Delhi, a Government of India Undertaking, has since been working as a Hindi Assistant in the pay scale of Rs 425-800/- While working in the ICAR, Information & Broadcasting Ministry, the Respondent No. 1 herein, circulated a vacancy vide circular dated 15.12.1983, inviting applications for appointment to the posts in Grade-III of CIS, Group 'B' (Rs 650-1200) on deputation (ad-hoc) basis. In pursuance of the advertisement, the applicant applied for the said post, ^{and} the Respondent No. 1, vide their letter dated 30th August, 1985 informed the applicant that he had been selected and appointed as an Assistant Editor (Hindi) in the Sainik Samachar (on deputation) in the CIS Group 'B' Grade-III post in the pay scale of Rs 650-1200 (pre-revised). The petitioner joined the Information and Broadcasting Ministry on 1.11.1985. and was in service of the 1st Respondent on 31.3.1986.

3. The main contention of the applicant is that he has not been given bonus for the year 1985-86 either by the respondent No. 1 or ICAR (respondent No. 4) ^{the} parent department. As such, he has been discriminated for not releasing his bonus for the year 1985-86. Hence, action of the respondents is violative of Article 14 and 16 of the Constitution of India.

4. Respondents 1 to 3, in their reply, stated that since applicant has not completed six months service in the year 1985-86 hence he is not entitled for any bonus. Applicant made representation to the respondent No. 1 for payment of bonus in the month of May, 1987 and 13-10-1987 respectively. Though the respondents, in their reply stated that no reply was given to the representation made by the applicant, yet is not correct. It is stated that he was informed by the Pay and Accounts Officer vide their letter dated 16.11.1988 stating that the applicant was not entitled for bonus for the year 1985-86 but the said letter is not on record.

5. Ld. counsel for the respondent No. 4 Sh. V.K. Rao submits that in so far as the respondent No. 4 is concerned, no reply is called for as there is no dispute that the applicant was relieved from his parent department on 31.10.1985 and he joined the borrowing department i.e. respondent No. 1 on 1.11.1985 and he has been working continuously there. Thereafter, respondent No. 4 has also given certificate to the applicant that he has not been paid any ad hoc bonus till he served the parent department.

6. Ld. counsel for the Respondents 1 to 3 Sh. Jag Singh submits that the facts are not in dispute. The question/ bonus is to ^{be} paid by the parent department or by the borrowing department. In this connection, the petitioner draws my

whether the

attention to the circular issued by the Ministry of Finance (Department of expenditure) vide dated 7.10.1986, wherein two main conditions for payment of bonus which are as follows:-

- (i) "Only those employees who were in service on 31.3.1986 and have rendered at least six months of continuous service during the year 1985-86 will be eligible for payment under these orders. Pro-rata payment will be admissible to the eligible employees for periods of continuous service during the year ranging from 6 months to a full year, the eligibility period being taken in terms of number of months of service (rounded to the nearest number of months)
- (ii) The quantum of ad-hoc bonus admissible under these orders will be worked out on the basis of emoluments as admissible on 31.3.1986. The term emoluments as occurring in these orders will be and include basic pay, personal pay, special pay, deputation duty allowance, dearness allowance and additional dearness allowances but will not include interim relief and other allowances such as house rent allowance compensatory (city) allowance, special compensatory (remote locality) allowance, bad climate allowance, children Education Allowance etc."

Further, on the query, whether the employees from State Govt./UT Admn./Public Sector Undertakings/Autonomous Organisation on reverse deputation with the Central Government. The answer to the query is that they are eligible for ad-hoc bonus to be paid by the borrowing department in terms of this O.M. dated 10.11.1983 provided no additional incentive as part of terms of deputation, other than Deputation Allowance, is paid and the lending authorities have no objection.

7. In the light of the above, it is an undisputed fact, that the applicant is not being paid any other incentive except the deputation allowance and he has not

been paid any ad hoc bonus by the parent department.

In the circumstances, reply of the respondent No. 1 to 3 stating that the applicant had not completed six months service, is not in accordance with the O.M. issued by the Ministry of Finance. There is no break in service from the parent department to the borrowing department. Under the requisite conditions, the applicant should have completed six months continuous service either in the parent department or in the borrowing department for becoming entitled for bonus. Bonus is entitled to those employees who were in service on 31.3.1986 and have rendered at least six months of continuous service during the year 1985-86. That being the case, applicant was in service with the respondent No.1 on 31.3.1986 and by that time he has completed more than 6 months continuous service both in parent department as well as in the borrowing department. Hence it is the responsibility of respondent No.1 to pay the bonus to the applicant for the year 1985-86.

8. In the facts and circumstances of the case, I am of the view, that the bonus shall be payable by the respondent No.1. In these circumstances, I order and direct accordingly to respondent No.1 to pay the bonus

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for the year 1985-86 to the applicant within a period of two months from the date of receipt of this order, failing which the respondents are liable to pay interest at the rate of 15%. No order as to costs.

B.S. Hegde
(B.S. Hegde) 21/1/94-
Member (J)

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