

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 700 1988  
T.A. No.

DATE OF DECISION 23.9.1988

Shri Gian Chand

Petitioner

Shri K.L.Bhatia,

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondents

Shri A.K.Bahera, Proxy Counsel Advocate for the Respondent(s)  
for Shri K.C.Mittal,

CORAM

The Hon'ble Mr. Kaushal Kumar, Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

MGIPRRND-12 CAT/86-3-12-86-15,000

*KAUSHAL KUMAR*  
MEMBER

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. CA 700/88

Date of decision: 23.9.1988

Shri Gian Chand ..... Applicant

Vs.

Union of India & others ..... Respondents

CORAM: Hon'ble Mr. Kaushal Kumar, Member

For the Applicant ..... Shri K.L.Bhatia, Counsel.

For the Respondents ..... Shri A.K.Bahera, Proxy  
Counsel for Shri K.C.  
Mittal, Counsel.

JUDGEMENT

The applicant who is a Store Keeper in the  
General  
Directorate of Health Services, has in this application  
under Section 19 of the Administrative Tribunals Act,  
1985 called in question the order dated 24.2.1988  
rejecting his representation in regard to crossing of  
the Efficiency Bar with effect from 1.6.1982.

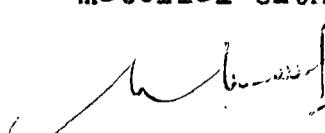
2. The Respondents have since allowed the  
applicant to cross the Efficiency Bar with effect from  
1.6.82 in the pre-revised scale of Rs.425-640 vide order  
dated 17.8.1988 filed as Annexure I to the counter  
affidavit. This order was issued after the applicant  
had given an undertaking on 11.7.1988 that he would  
withdraw the case filed by him in this Tribunal and  
"would not prefer any further claim executively or  
judicially".

3. After the issuance of the order dated 17.8.1988  
by the Respondents nothing much survives in this application  
calling for an adjudication. However, the learned

*M. K. S.*

counsel for the applicant contends that the applicant is entitled to interest on arrears of salary and also to costs. It is further contended by him that the ~~was~~ undertaking/given by the applicant under pressure from his superior officers. A rejoinder has also been filed today wherein the applicant has stated that he gave the undertaking to withdraw the case from the Tribunal under pressure from his superior officers but an oral assurance was given by the Deputy Director (CGHS) that the applicant will be paid the amount of increments along with interest as accrued to him on the accumulated amount withheld during the past six years.

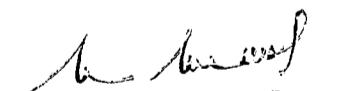
4. From the facts of the case it is apparent that the applicant had been denied crossing of the Efficiency Bar on the date it was due. The learned counsel for the Respondents points out that this was done after due consideration by the Departmental Promotion Committee since the applicant had certain adverse entries in his Confidential Reports for the relevant period. However, subsequently in 1987 the reporting officer had separately given a clean chit which impelled the Departmental Promotion Committee to reconsider the matter and allow the applicant to cross the Efficiency Bar from the due date namely 1.6.1982. There is no provision in the Rules for taking into consideration such a certificate given by the reporting or reviewing officer subsequent to their actually recording the entries. The assessment for the purpose of allowing an incumbent to cross the Efficiency Bar has to be done with reference to the actual entries made in the Confidential Reports and not on any extraneous material either in favour of or against the concerned



official. If such a procedure were to be countenanced it would result in injustice in cases where there is no adverse entry in the Confidential Reports but a subsequent endorsement by the reporting or the reviewing officer could be made a ground for taking an adverse view marring the prospects of an official. There can be no doubt whatsoever that in the present case the applicant has been put to unnecessary hardship for a long period of six years when the increment which fell due on 1.6.1982 at the stage of Efficiency Bar and the subsequent increments were not allowed to be drawn.

5. It is not necessary to go into the question whether the undertaking given by the applicant on 11.7.1988 was furnished under pressure or duress. The fact remains that the said undertaking will not extinguish any legal rights of the applicant. In all fairness the applicant has to be compensated by way of interest on the delayed payments due to him.

6. Accordingly the application is partly allowed with the direction that the applicant shall be allowed interest at the rate of 10% per annum on the arrears of salary worked out on the basis of the increments from the dates on which they fell due till the date of actual payment by the Respondents. There shall be no order as to costs.



( KAUSHAL KUMAR )  
MEMBER  
23.9.1988