

15

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 127/88

DECIDED ON : 3.6.1993

Prem Singh

... Petitioner

vs.

Master General of Ordnance & Ors. ... Respondents

COURT :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri Ashish Kalia, Counsel for Petitioner
None for the Respondents

JUDGMENT (ORAL)

Hon'ble Mr. Justice V. S. Malimath, Chairman :-

The petitioner has claimed several reliefs in this application. As most of the reliefs have been granted, he restricted his prayer for grant of pay and emoluments attached to the post of Senior Store Keeper from the date he has been granted notional promotion w.e.f. 1.11.1982 to 8.11.1989, the date from which he has been given the benefit of the higher scale of pay. We need advert only to a few facts. A disciplinary inquiry was initiated against the petitioner and he was kept under suspension from 6.12.1972 to 24.11.1975. The disciplinary proceedings, however, continued. During the pendency of these proceedings, the disciplinary inquiry proceedings were dropped on 7.10.1989. Consequently an order was made on 16.10.1989 granting notional promotion to the petitioner to the post of Senior Store Keeper w.e.f. 1.11.1982 and the benefit of actual promotion only from 8.11.1989. The limited relief which the petitioner now prays is for grant of emoluments of the post of Senior Store Keeper from the date of deemed promotion from 1.11.1982 to 8.11.1989. The respondents have not filed any reply nor did anybody appear for them during the course of arguments.

2. The case of the petitioner is that when the petitioner was found fit and suitable for promotion w.e.f. 1.11.1982 and ~~earlie~~ promotion was denied to him till the year 1989 not on account of any fault of his but on account of the disciplinary proceedings which ultimately were dropped, as the petitioner has been found fit and suitable w.e.f. 1.11.1982, it was argued that there is no justification for denying the benefit of higher emoluments attached to the post of Senior Store Keeper w.e.f. 1.11.1982. The principle of no-work-no-pay cannot be invoked in a case like this, when the non-functioning of the petitioner from 1.11.1982 to 8.11.1989 was not on account of any ~~because~~ volition on the part of the petitioner, but ~~he~~ was prevented from functioning in the promotional post because he was not promoted when he became due on 1.11.1982 on the ground that disciplinary proceedings were pending. These disciplinary proceedings did not culminate in any penalty being imposed on the petitioner. Hence, this is a case in which no finding has been recorded holding the petitioner guilty of any particular misconduct. The charges were dropped and the inquiry proceedings were closed on 7.10.1989. As the petitioner's failure to work as Senior Store Keeper from 1.11.1982 to 8.11.1989 was not attributable to the conduct of the petitioner, he cannot be denied the emoluments for the said period.

3. We, therefore, have no hesitation in holding that the petitioner is entitled to be paid the emoluments of the higher post of Senior Store Keeper consequent upon his promotion on notional basis w.e.f. 1.11.1982. But having regard to the fact that the petitioner approached this Tribunal with this application only on 8.1.1988, we consider it just and proper to restrict the benefit of the arrears to a period of three years prior to the date of filing of this application.

4. For the reasons stated above, this petition is partly allowed and disposed of with the following directions :-

(1) The pay of the petitioner in the post of Senior Store Keeper shall be fixed as on 1.11.1982, the date from which he was notionally promoted.

(2) The respondents shall pay the arrears of pay to the petitioner on the basis of his promotion to the cadre of Senior Store Keeper for the period from 8.1.1985 to 8.11.1989. The ^{prayer for} arrears of emoluments for the period prior to 8.1.1985 is rejected.

(3) This order shall be complied with and the difference in emoluments due to the petitioner in pursuance of the aforesaid directions shall be paid to him within a period of three months from the date of receipt of this judgment. No costs.

B. N. Dholiwal

(B. N. Dholiwal)
Member (A)

V. S. Malimath

(V. S. Malimath)
Chairman

as