

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1256/88  
T.A. No.

198

DATE OF DECISION 29-7-1991

Shri G.S. Tiagi Applicant (s)

Shri R.L. Sethi Advocate for the Applicant (s)

Versus

U.O.I. & Ors. Respondent (s)

Shri N.S. Mehta Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. ~~Justice~~ U.C. SRIVASTAVA VICE CHAIRMAN

The Hon'ble Mr. I.P. GUPTA, MEMBER

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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(of the Bench delivered by  
Hon'ble ~~Justice~~ Shri U.C Srivastava)

The applicant has retired from the Central Government Service as L.D.C. He was recruited as L.D.C. w.e.f. 14.12.1943. He was promoted to U.D.C. on 01.05.1955 and thereafter promoted to the post of Licencing Assistant on 01.11.1956 In the seniority list issued in 1974, the applicant was assigned seniority No.5, whereas the Respondent No.3 was assigned seniority No.6. But the benefit of fixation of pay was not assigned to the applicant. Applicant was confirmed as Section Head w.e.f. 29.01.1975 and Respondent No.3 was confirmed w.e.f. 01.08.1975.

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In the final seniority list published on 30.06.1981, the applicant was assigned a place as senior to Respondent No.3. In the final seniority list published and finalised on 01.03.1984 also, the applicant continued to be placed just above to Respondent No.3. But the respondent No.3 was allowed higher rate of pay and his pension on superannuation has been fixed at a higher rate than the applicant. That is why the applicant prays for notional fixation of pay under normal operation of rules as per the terms of instructions contained in the Department of Personnel and Administrative Reforms O.M.No.9/3/72-Estt.(D) dated 22.7.72- for notional fixation of pay under FR 27(11) read with clarification issued vide Department of Personnel and Administrative Reforms OM.No.20011/1/22/Estt. dated 13.4.78. The representation on behalf of the applicant was rejected. As mentioned in the counter, the notional fixation of pay has to be done only in those cases where an official was promoted in pursuance of instructions contained in Government of India O.M. dated 22.7.72 and where such subsequently promoted officer was earlier junior to the other already promoted person. These instructions are applicable only to those cases where a person who has been placed junior in accordance with the revised seniority was promoted to the higher

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post prior to 4.1.72 and the claim of the person who became senior subsequently according to revised seniority was not considered for that promotion earlier, as he happened to be junior to such already promoted person according to the un-revised seniority. As such, the applicant's case is not covered by O.M. of 1972. The instruction simply envisages grant of promotion upon revision of seniority and fixation of pay w.e.f. 04.01.1972.

The representation of the applicant was wrongly rejected. Accordingly, the application deserves to be allowed and the respondents are directed to notionally fix the pay of the applicant from the date the respondent No.3 was allowed along with the consequential benefits from that date. Let it be done within a period of three months from the date of communication of this order. Although the applicant retired from service, the applicant should be paid higher wages on the basis of the notional fixation of pay equal to respondent No.3 and benefits including enhancing of pay shall be given to him.

There shall be no order as to costs.

  
(I.P. GUPTA)  
MEMBER

  
(U.C. SRIVASTAV)  
VICE CHAIRMAN