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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 141 1986
T.A. No.

DATE OF DECISION 19.5.86

R. K. Bharti

Petitioner

In person

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Sh. K.C. Mittal

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. MUKERJI, MEMBER

The Hon'ble Mr. H.P. BAGCHI, JUDICIAL MEMBER

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

This is a petition filed before us under Section 19 of the Administrative Tribunals Act 1985 in which the applicant has prayed that the order of 18.10.82 imposing a penalty of reduction of his pay by three stages from Rs.1000 to Rs.880

for a period of one year should be quashed solely on the ground that the order contains basic inconsistency. The inconsistency being ^{that} while the period during which the pay is reduced has been stated to earn increments the reduction has been ordered to have postponing his future increments.

2. We have heard the arguments of both the parties and gone through the records very closely. In order to decide the issue involved, the relevant portion of the impugned order dated 18.10.82 may be quoted as follows:-

" It is therefore, ordered that the pay of Shri R.K.Bharati, Assistant Editor Bhagirath(Hindi) CWC be reduced by three stages from Rs.1000/- to Rs.880/- in the time scale of pay Rs.650-1200 for a period of one year with immediate effect..... It is further directed that Shri R.K.Bharati will earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay."

The main issue in the application is whether the aforesaid order is self-contradictory in the sense that while it says that the petitioner " will earn increment during the period of reduction", on the other hand it also says that on the expiry of this period the reduction "will have the effect of postponing his future increment of pay". Fundamental Rule 29 states as follows:-

F.R.29(1) " If a Government servant is reduced as a measure of penalty to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, the period of reduction shall operate to postpone future increments and, if so, to what extent.

(2) If a Government servant is reduced as a measure of penalty to a lower service,

grade or post or to a lower time-scale, the authority ordering the reduction may or may not specify, the period for which the reduction shall be effective; but where the period is specified that authority shall also state whether on restoration the period of reduction shall operate to postpone future increments and, if so, to what extent."

3. The penalty of reduction of pay to the lower stage of the time-scale of pay is considered to be one of the major penalties, and is enunciated in Clause V to Rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules as follows:-

reduction to a lower stage in the time-scale of pay for a specific period, with further direction as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on expiry of such period the reduction will or will not have the effect of postponing his future increments of pay."

4. In the Government of India, Ministry of Finance O.M.No.2(34)-E(III)/59 dated 17.8.59, 9.6.60 and 24.6.63 it has been made clear that the reduction to a lower stage in the time-scale is not permissible under the Rules for unspecified period or a permanent measure and that when Govt. servant is reduced to a particular stage his ^{pay}/will remain constant at the stage for the entire period of reduction. It has been further clarified that every order passed by a competent authority under Sub-rule(1) of Fundamental Rule 29 imposing on a Govt. servant the penalty of reduction to a lower stage in a time-scale should indicate:-

- (i) the date from which it will take effect and the period (in terms of years and months) for which the penalty shall be operative;
- (ii) the stage in the time scale (in terms of rupees) to which the penalty shall be operative;
- (iii) the extent (in terms of years and months) if any, to which the period referred to at Item (i)

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above should operate to postpone future increments.

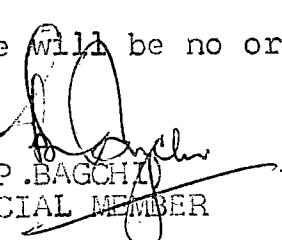
It has further been clarified that the period to be specified under item(iii) should in no case exceed the period specified under item(i).

5. From the above, it is clear that the period by which future increments are postponed cannot exceed the period for which the penalty will be operative. Consequently, if during the period of operation of the penalty it is specified that the increments are earned during the period of reduction of pay the question of postponement of future increment does not arise. The postponement of future increments will arise only when it is stated in the order that the increment will not be earned during the specified period of reduction of pay. In that case the disciplinary authority can also say whether there will be any postponement of future increment and to what extent. The postponement cannot in any case exceed the period for which the reduction is specified. But once it is ordered that the period for which the reduction is directed will earn increments, there can be no postponement of future increments. In the above context, we find considerable weight in the averment of the petitioner that there is contradiction in the impugned order. We accordingly direct that on the expiry of the period of penalty petitioner's pay should be restored without any affect on his future increments. The petitioner's pay should be restored at the stage where his pay would be as if he has been earning increments in the pay scale in the normal course. As regards the merit of the penalty imposed, the application does not adduce any viable ground to challenge the inquiry report or the order passed by the disciplinary authority.

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on the basis of extraneous consideration or malafide approach. We do not find it a fit case for any intervention on merits. The application is therefore allowed in part to the extent of restoration of the petitioner's pay after the period of reduction without postponement of his future increments. In the circumstances, there will be no order as to costs.


(H.P.BAGCHI)
JUDICIAL MEMBER


(S.P.MUKERJI)
MEMBER