

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 342/86

1986

T.A. No.

DATE OF DECISION ~~28.07.1987~~

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Shri G.S. Manku

Petitioner

Petitioner in Person

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Smt. Raj Kumari Chopra

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

The Hon'ble Mr. M.B. Mujumdar, 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.

(M.B. Mujumdar)
Judicial Member

(S.P. Mukerji)
Administrative Member

(5)

Central Administrative Tribunal
Principal Bench, Delhi

Regn. No. OA-342/86

Dated: 3.6.1987

Shri G.S. Manku

.... Applicant

Versus

Union of India

.... Respondents

For Applicant

.... The applicant in person

For the Respondents

.... Smt. Raj Kumari Chopra,
Advocate.

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.
Hon'ble Shri M.B. Mujumdar, Judicial Member.

(Judgement of the Bench delivered by Hon'ble
Shri S.P. Mukerji, Member)

The applicant, who is working as Assistant Director General in the Department of Communications, has moved the Tribunal through his application dated 1st May, 1986 under Section 19 of the Administrative Tribunals Act praying that the arrears of pay for the period from 15.2.1955 to 6.4.1965 which became due to him due to the belated decision of the Government, dated 6.2.1982 but denied to him, may be made good to him with interest at market rate.

2. The brief background facts of the case as enunciated by the respondents themselves, may be recounted as follows. The applicant was appointed as Tra~~ns~~fer in the scale of Rs.60-4-120-5-150 in the Planning Branch of the erstwhile P & T Directorate w.e.f. 5.5.1949. He was allowed to work as Draftsman (Rs.100-5-125-6-185) for a brief period from 23.7.1949 to 31.12.1949. As the Planning Branch of the Department was wound up and an independent circle, known as T&D Circle, was created w.e.f. 1.6.1950, the services of employees working in Planning Branch were placed at the disposal of the new circle. Shri Manku was adjusted against the post of Draftsman (Rs.60-150) in T&D Circle.

....2.

He joined the post on 21.8.1950 and continued in that Circle upto 14.2.1955. At the time of transfer he was drawing pay of Rs.64/- and he was allowed to draw that pay in T&D Circle. On 15.2.1955, the official was posted as Draftsman in the P&T Directorate in the scale of Rs.100-185 and his pay was fixed at the stage of Rs.100/- in accordance with the Fundamental Rules governing fixation of pay.

3. While Shri Manku was in T&D Circle, the P&T Directorate considered a request submitted by the official and decided to create a post of Draftsman in the P&T Directorate in the scale of Rs.100-185 for the period from 1.1.1950 to 31.5.1950, and in T&D circle in the scale of Rs.60-150 from 1.6.1950 to 8.6.1950 and adjust him against that post. The pay fixation of the official was revised and the case was settled in 1957. Subsequently, the Director of Audit & Accounts (P&T) Nagpur vide their letter No.Engg.I/T&D/PF/2859 dated 31.1.1976 allowed him protection of pay of Rs.100/- of Draftsman to which he became entitled due to retrospective sanction dated 5.11.1954. At the same time it was stipulated that the service rendered as Draftsman in T&D Circle in the scale of Rs.60-150 will not be counted for the purpose of fixation of pay on his transfer to Directorate as the officer did not exercise option for repatriation to P&T Directorate by 31.5.1951, the deadline fixed for repatriation. Due to the revision of pay fixation in 1976 the pay of the official at the time of reversion to P&T Directorate in 15.2.55 became Rs.120/- and the official sought protection of this pay.

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4. However, this was not initially agreed to, but subsequently he was allowed protection of pay in relaxation of normal rules, as a special case, subject to the condition that he will be allowed to draw arrears only from the date of issue of sanction from 14.8.1981. This restriction ^{according to the respondents} imposed is ^{in line} with Rule 42-A of the General Financial Rules and also the General Policy being followed by the Government of India. In view of this, the representations submitted by the official from time to time for payment of arrears from 15.2.1955 to April, 1965 ^{by the respondents} were ^{re} rejected as he had already been granted sufficient concessions and any further relaxation ^{according to the respondents} in this case ^{is} was not justified.

5. The case of the petitioner is that with the revision of his pay w.e.f. 15.2.1955 at the stage of Rs.120/- in accordance with the sanction letter of 6.2.1982 (Annex. I to the petition) there is no reason why the arrears should be denied by the penultimate para of the same letter.

6. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The respondents have based their case on Rule 42-A of the General Financial Rules which reads as follows:-


" Rule 42-A. Retrospective effect shall not be given by competent authorities to sanctions relating to revision of pay or grant of concessions to Government servants, except in very special circumstances without the previous consent of the Finance Ministry."

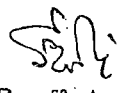
From the above it appears that the aforesaid rule may apply to such revision of pay or grant of concessions which are ^{of} ~~in~~ general nature but may not strictly be applicable to a case like this where a decision was taken on the basis of continued representations of the

applicant right from 1954. During the course of the arguments, it was revealed that the Director of Audit, P & T, Nagpur, on applicant's representation, revised his pay retrospectively as Draftsman w.e.f. 1.6.1950 by the Directorate's letter, dated 31.1.1976. The applicant represented again that his last pay drawn in T&D Circle of Rs.120/- should be protected on his transfer to the P & T Directorate in 1955 but this was not agreed to as he had not been confirmed as a Draftsman but only as a Tra~~ns~~fer. On further representation, the matter was re-examined and his pay was fixed at Rs.120/- per month w.e.f. 15.2.1955 in relaxation of the rules but subject to the condition that arrears will be paid only from the date of issue of the sanction, i.e., 14.8.1981. It will thus be clear that the benefit of pay fixed w.e.f. 15.2.1955 was earned by the petitioner on merits through a series of representations and by different stages and in that context denial of the arrears between 1955 and 1965 before he was promoted as Assistant Engineer, is not justified. No reference to Rule 42-A was made in the order, dated 6.2.1982. As regards the question of limitation, the denial of arrears was mentioned in the order, dated 6.2.1982 and the applicant's representation was rejected on 18.3.1986. The present application filed on 1st May, 1986 being within a year of the date of rejection, cannot be dismissed as time-barred.

7. In the facts and circumstances, we allow the application with the direction to the respondents that arrears of pay based on the revised pay sanctioned by them vide their order dated 6.2.1982 for the period

between 15.2.1955 and 6.4.1965 should be made good to the applicant within a period of three months from the date of communication of this order. Considering that the revised pay was sanctioned as a matter of grace, there is no case for grant of interest whatsoever on the arrears. There will be no order as to costs.


(M.B. Mujumdar)
Judicial Member

 31.7.87
(S.P. Mukerji)
Administrative Member