

Central Administrative Tribunal  
Principal Bench, New Delhi

Regn. No. DA-1247/87

Date: 10.8.1989

Shri Piara Lal ..... Applicant

Versus

Union of India & ..... Respondents  
Another

For the Applicant ..... Shri B.K. Aggarwal, Advocate

For the Respondents ..... Shri A.K. Sikri, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)  
Hon'ble Shri M.M. Mathur, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement.
2. To be referred to the Reporter or not?

(Judgement of the Bench delivered by Hon'ble  
Shri M.M. Mathur, Administrative Member)

The applicant, who has retired from the post of Technical Supervisor in the Ministry of Communications, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for issuing a direction to the respondents to pay him arrears of pay and allowances on the basis of fixation of pay vide Annexure A-2 to the application w.e.f. 1.6.1974 to 1.6.1983.

2. The facts of the case in brief are that the applicant, while working in the Office of the erstwhile General Manager, Delhi Telephones, New Delhi, was served with a charge-sheet on 23.4.1974 under Rule 14 of the C.C.S. (CCA) Rules, 1965. After holding an inquiry, the punishment of withholding of one increment without cumulative effect was imposed upon him. On appeal, the penalty was set aside by the Appellate Authority<sup>who</sup> remitted the case back to the disciplinary authority for de novo

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inquiry in the case from the stage of issuing a charge-sheet. A fresh charge-sheet was issued on 14.12.1978 and the enquiry proceedings ended in the exoneration of the applicant on 29.9.1981.

3. By an order dated 2.4.1983 at Annexure A-1, the applicant was promoted from the post of Technician to the post of Technical Supervisor in the scale of Rs.425-15-560-EB-20-640 w.e.f. 1.6.1974 with the condition that no arrears will be paid to him. Subsequently, the Accounts Officer, vide his order dated 14.7.1983 (Annex.A-2) fixed his pay w.e.f. 1.6.1974 to 1.6.1985.

4. The applicant retired on superannuation w.e.f. 31.1.1987.

5. The grievance of the applicant is against the denial of the arrears of pay and allowances w.e.f. 1.6.74, though the respondents had given him the benefits of his promotion from 1.6.1974. The applicant has contended that in his case, 'sealed cover' procedure was adopted after he was approved for promotion by the Departmental Promotion Committee. When the inquiry proceedings were dropped on 20.5.1978, the orders of promotion should have been issued on the basis of the 'sealed cover' procedure.

6. The contention of the respondents is that the applicant's case was considered by the D.P.C. which was held on 4.10.1974 and 15.10.1974, but his case was kept in a sealed cover in view of the pendency of inquiry against him. When he was exonerated in the inquiry, he was promoted on the basis of the recommendations of the D.P.C. w.e.f. 1.6.1974 with all benefits, including pay fixation, seniority, etc., except arrears of pay and allowances during the period from 1.6.1974 to 2.4.1983. The

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respondents are relying upon the Government of India's Instructions contained in O.M. No. 22011/1/79-Estt. (A) dated 30th January, 1982 issued by the Department of Personnel, and Rule 156 of the Posts & Telegraphs Manual (Vol. III) in support of their contention that no arrears would be admissible to the Government servant on promotion in such cases.

7. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The learned counsel for the respondents relied heavily on the decision of the Supreme Court in *Parluru Ramkrishnaiah and Others Vs. Union of India & Others*, J.T. 1989 (1) S.C. 595 at 606. In that case, the Supreme Court considered the question whether the claim of the petitioners for promotion to the post of Chargeman Grade II on completion of two years' satisfactory work was legally tenable. While upholding their claim, the Supreme Court did not allow back wages to them on the basis of the settled service rule that there has to be no pay for no work.

8. The decision of the Supreme Court in *Parluru Ramkrishnaiah's* case is not applicable to the facts and circumstances of the present case where the applicant had been found suitable for promotion by the DPCs held in 1974, but the orders of promotion were not issued on account of the 'sealed cover' procedure followed by the respondents. The validity of the O.M. dated 30th January, 1982 and Rule 156 of the P & T Manual, relied upon by the respondents in the instant case, was considered by this Tribunal in *K. Ch. Venkata Reddy & Others Vs. Union of India & Others*, A.T.R. 1987 (1) C.A.T., 547. This Tribunal struck

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down that portion of para.2 of O.M. dated 30th January, 1982 which says, "But no arrears are allowed in respect of the period prior to the date of actual promotion."

The Tribunal directed that the 'sealed cover' procedure to be valid should also provide for payment of salary for the period during which the promotion was withheld, along with all consequential benefits in case the official is completely exonerated in the disciplinary or criminal cases.

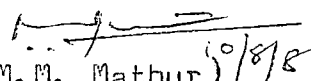
9. In the instant case, the applicant was exonerated in the inquiry on 29.9.1981. Therefore, the claim of the applicant for arrears of pay and allowances w.e.f. 1.6.74 to 1.6.1983 is legally tenable. The respondents have not alleged that the delay in the conclusion of the inquiry initiated against the applicant was attributable to him.

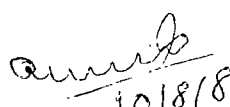
10. The learned counsel for the applicant also referred to numerous other decisions of this Tribunal in support of his contention that the applicant is entitled to arrears of pay and allowances on his promotion (vide Sambhu Nath Das Vs. General Manager & Others, A.T.R. 1986 (2) C.A.T., 110; Roshan Lal Vs. Union of India, A.T.R. 1987 (1) C.A.T., 121; Charan Dass Vs. State of Punjab, 1980 (3) SLR 703; and Asha Rani Vs. State of Haryana, 1983 (1) SLR 400). In view of the decision of the Principal Bench of this Tribunal in K.Ch.Venkata Reddy's case, mentioned above, it is unnecessary to consider the other decisions cited by the learned counsel for the applicant.

11. In the light of the above, we order and direct that the respondents shall pay to the applicant arrears of pay and allowances on the basis of fixation of pay vide

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Annexure A-2 to the application w.e.f. 1.6.1974 to 1.6.1983. In the circumstances of the case, we do not consider it appropriate to pass any order on the claim of the applicant for payment of interest on such arrears. The respondents shall comply with the above directions within a period of one month from the date of communication of a copy of this order. The parties will bear their own costs.

  
(M.M. Mathur) 10/8/83  
Administrative Member

  
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(P.K. Kartha)  
Vice-Chairman(Judl.)