

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 501/87  
T.A. No.

198

DATE OF DECISION 21.12.1989

Shri Harnam Singh

Applicant (s)

Shri R.K. Kamal

Advocate for the Applicant (s)

Union of India & Ors. <sup>Versus</sup>

Respondent (s)

Shri K.C. Mittal

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative 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*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(pronounced by Hon'ble Shri I.K. Rasgotra, Member)

The applicant, who has worked as a Blacksmith in the Office of the Garrison Engineer under the Engineer-in-Chief, Army Headquarters, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to grant him the scale of pay of Highly Skilled Grade I (Rs.380-560 unrevised) and refix his pay accordingly with effect from October, 1985. On that basis, he has claimed for refixation of his pay, gratuity, commutation and other retirement and terminal benefits. Another prayer made by him pertains to alleged illegal recovery

of Rs.3,593/- from his G.P.F. dues.

2. There is no dispute as regards the facts of the case. The applicant began his career in 1948 as a Blacksmith in the scale of pay of Rs.260-400. He was promoted to the next higher scale (Highly Skilled Grade II) of Rs.330-480 in 1984. He retired on attaining the age of superannuation on 30.11.1986.

3. In the light of the recommendations of the Anomalies Committee after the recommendations of the Third Pay Commission were accepted by the Government, the respondents made a provision for introduction of Highly Skilled Grade I in the pay-scale of Rs.380-560 to the extent of 15 per cent of the posts in the skilled category. This was done vide their letter dated 4th July, 1985. Skilled Tradesmen with three years' service were eligible for promotion after putting in a minimum of three years' service in Highly Skilled Grade II subject to passing of Trade Test for Highly Skilled Grade I, pending the framing of formal Recruitment Rules. The eligibility criteria for promotion to Highly Skilled Grade I was, however, relaxed vide letter dated 8th April, 1986 to the extent that the service required to be put in the grade of Highly Skilled Grade II was reduced from three years to one year. Due to administrative delay, no Trade Test was conducted till the applicant retired from service on attaining the age of superannuation. The applicant has alleged that promotions in the category of Highly Skilled Grade I were made only from February, 1987 onwards, but were made effective from a retrospective date, i.e., October, 1985. The persons so promoted were junior to

him while he was in service. The grievance of the applicant is that by implementing the scheme after his retirement on attaining the age of superannuation, he has been deprived of the benefit of promotion to Highly Skilled Grade I which has adversely affected not only his pay and allowances while in service but also his retirement benefits.

4. The case of the respondents is that there was no deliberate delay in implementing the policy. The relaxation of three years' service to one year was made only in April, 1986 and immediately thereafter, steps were taken to hold Trade Test. In the meantime, the applicant retired.

5. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The respondents have not satisfactorily explained the delay for not holding the Trade Test after the relaxation of the eligibility criteria was given in April, 1986 and until the applicant retired on 30.11.1986. The respondents have not contended that the service rendered by the applicant while in service was not upto the desired standard. It is true that at this stage, the applicant cannot be asked to undergo a Trade Test and to promote him on the basis of such a Test is not possible. However, persons junior to him who passed the Test, have been given the benefit of promotion from October, 1985. Not to extend to him the same benefit at least in the matter of refixation of pension and other retirement benefits, would not be consistent with justice, equity and fairplay.

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6. During the arguments, the respondents brought to our notice that the applicant had withdrawn a sum of Rs.1300/- from his G.P.F. but the same had not been debited to his account, thereby resulting in double payment. The sum of Rs.3593/- represents the principal amount of Rs.1300/- withdrawn <sup>by</sup> him together with the interest thereon. In view of this, the learned counsel for the applicant also did not press the claim on account of G.P.F.

7. In the facts and circumstances of the case, we direct the respondents to treat the applicant as having been notionally promoted to the Grade of Highly Skilled Grade I from October, 1985, when the persons junior to the applicant were promoted to that Grade. He would, however, not be entitled to arrears of pay and allowances for the period from October, 1985 to 30.11.1986. His pension, commutation of pension, gratuity and other retirement benefits should be refixed by taking into account the pay he would have drawn had he been appointed to Highly Skilled Grade I w.e.f. October, 1985 to the date of his superannuation. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. The parties will bear their own costs.

  
(I.K. Rasgotra) 21/12/89  
Administrative Member

  
21/12/89  
(P.K. Kartha)  
Vice-Chairman (Judl.)