

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.1042/90

15.05.92

Shri M.A. Madnani

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Gyan Prakash

For the Respondents

...Shri K.L. Bhandula

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

JUDGEMENT (ORAL)

The applicant was working as Assistant Director in the Office of Superintendent Engineer, Planning Circle, CWC and filed this application aggrieved by the order dt.4.7.1989 issued by the Under Secretary, CWC. The grievance of the applicant is regarding anomaly in fixation of pay and he has represented to the respondents for refixation of his pay at the level of pay drawn by his juniors in the grade of EAD/AE.

2. The applicant has claimed the relief that the respondents be directed to refix the applicant's pay in the grade of Assistant Engineer/EAD, w.e.f. 30.10.1974 at the level of the pay drawn by his junior viz. Panna Lal Yadav with consequential benefits including increments etc. He has also claimed arrears of pay and consequential benefits.

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3. While working with the respondents, the applicant has gone on deputation to Indian Cooperation Mission, Kathmandu for a period of three years in 1968-69 and he joined there on 7.5.1969. When the applicant was on deputation to Indian Cooperation Mission, Kathmandu, certain promotions were made in CWC from Supervisors to Assistant Engineers on ad-hoc basis in April/May, 1972. The applicant was also eligible for ad-hoc promotion to the post of Assistant Engineer on the basis of seniority-cum-fitness. When the applicant was on deputation, his juniors Panna Lal and others were promoted as Assistant Engineer on ad-hoc basis between April, 1972 to October, 1974 and the applicant was never given any option nor was called to accept the ad-hoc promotion. The applicant was repatriated from deputation on 20.10.1974 and joined the parent department on 30.10.1974. He was given an ad-hoc promotion in the pay scale of Rs.650-1200. The applicant was further promoted as Assistant Director in the pay scale of Rs.700-1300 in April, 1980. The grievance of the applicant is that the pay drawn by the juniors because of their earlier ad-hoc promotion has been fixed in the pay scale of Rs.650-1200 at the time of their promotion and the applicant was also given the starting pay when he was given ad hoc promotion on repatriation on 30.10.1974. As such the applicant was drawing much less than

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his immediate juniors were drawing. The applicant made a representation and the respondents vide their letter dt.4.7.1989 turned down the representation on the ground that the judgements given by the Central Administrative Tribunal in cases by the Hyderabad Bench in case of G.Kumar Swamy and B.B.Rangaiya are to be implemented in respect of the petitioners of that case only. As such the applicant has not been given that benefit.

4. The respondents contested the application and stated that the applicant has no right to ad-hoc promotion and in fact, the applicant, while on deputation has drawn much higher emoluments. It is, therefore, averred that those who have been promoted earlier, have been given the pay scale at the time of their promotion and Next Below Rule applies only to regular promotion.

5. I have given a careful consideration on the basis of the arguments advanced by the learned counsel of the parties supported by the judgement of the similar cases in the case of OA 753/86 (B.S.Bhandari vs. UOI) decided on 10.1.1990. There are two other judgements also mentioned in the impugned order itself. The judgement is also ⁱⁿ a bunch of OA Nos. 1621/89, 1628/89, 1629/89, 1761/89, 1856/89 and 2330/89, where the similar relief has been allowed to the applicants of

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that case and the applicant in the present case is almost similar ly situated and has prayed for the same relief.

6. In view of the above, I find that the pay fixed on repatriation to the parent department by the respondents is not just and equitable and the applicant should have been given the benefit of the Next Below Rule. The pay of the applicant should have been given a presumptive fixation from the date his junior was promoted on ad-hoc basis in the parent cadre so that on his repatriation to the parent department, he should have been fixed almost at the same level on which his next below junior was drawing.

7. The direction, therefore, is issued to the respondents that they will refix the pay of the applicant w.e.f. 28.1.1975, though he was relieved earlier on 30.10.1974 at the level of the pay of his juniors Shri Pannalal Yadav & Ors with all consequential benefits of arrears etc. His pay shall also be fixed under the CCS (Revised Pay) Rules, 1987.

In the circumstances, the parties to bear their own costs. The respondents to comply with the above directions within a period of 3 months from the date of receipt of this order.

J. P. Sharma
(J.P. SHARMA) 15.5.87
MEMBER (J)

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