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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH.
NEW DELHI.

Date of Decision: 02.06.1992

OA 146/90

Dr. J.K. ARORA

... APPLICANT.

VS.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant

... SHRI SANT SINGH

For the Respondent

... Ms. Manju Bagai,
departmental
representative.

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

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant has filed this Original Application in January, 1990 while he was working as Junior Technical Assistant in CSIR, the post to which he was promoted in April 1972 in the scale of Rs.425 -15-500-EB-15-560-20-700. The grievance of the applicant at the time of filing of this OA is non-crossing of EB w.e.f. 1.4.78 at the stage of Rs.515/- in the scale of Rs.425-700.

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.....2.

The applicant has prayed the relief that increments withheld in the time scale of pay at Rs.500/- be released w.e.f. 1.4.78. and pay Rs.15/- making the pay of Rs.515/- as on 1.4.78. He has also prayed for other consequential reliefs on account of this refixation on the ground of due increment after crossing of EB.

The respondents contested the application and filed reply to the averments made in the application parawise and praying that the application be dismissed. The objection of the respondents appears to be that the crossing of EB at the stage of Rs.500/- was not considered w.e.f. 1.4.78 as a criminal case vide FIR No.5 dated 9.5.75 was pending against the applicant and in accordance with the OM of DPAR dated 6.4.79 in a case of government servant against whom disciplinary proceedings are pending should be considered only after the conclusion of the disciplinary proceedings. It appears that a DPC also considered the case of the applicant but he was not recommended to cross EB till 31.10.85 and as such according to the respondents, the applicant has no claim for release of the increment at the stage of EB in the scale of Rs.425-700.

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The applicant also filed rejoinder reiterating the facts alleged in the application.

However, another development during the pendency of the case has taken place and the respondents themselves by Office Order No.63 dated 11.7.91 considered the applicant on the basis of recommendations of the DPC for promotion as Senior Technical Assistant in the grade of Rs.550-900 which has been revised to Rs.1640-2900 w.e.f. 1.1.86 on the recommendations of the Fourth Pay Commission's report.

It also appears that the respondents have given prospective promotion to the applicant w.e.f. 1.5.78 limiting the financial benefits, the date of resuming the duty after suspension period i.e. from 4.1.80. When the applicant has already been considered fit for promotion on the recommendations of the DPC, the EB which was due almost in the same year stands automatically passed and cleared. In view of this changed position and according to the Extant Rules applicable to the case of the applicant, the pay of the applicant on

1.4.78 has to be refixed in the scale of Junior Technical Assistant at the stage of Rs.515/- in the scale of Rs.425-700. The applicant, therefore, has to get this arrear of Rs.515/- till his promotion to the next promotional post of Senior Technical Assistant i.e. for one year.

As regards the benefit in the scale of Rs.550-900 the same has been given to the applicant notionally from 1.4.78 till 4.1.80 and after that the applicant has been given full benefit.

In view of the above facts, the application is disposed of with the following directions to the respondents :-

- a) the respondents shall fix the pay of the applicant on 1.4.78 at the level of Rs.515/- in the scale of Rs.425-700 and give the applicant the arrear of pay and other allowances due on this increment in the pay Rs.515/- w.e.f. 1.4.78;
- b) the respondents to give benefit to the applicant in the form of arrear of the pay only till 1.5.78;
- c) the respondents have given notional promotion to the applicant in the higher post of

Senior Technical Assistant w.e.f. 1.5.78 but this promotion is notional with regard to the fixation of monetary benefits and the actual benefit has accrued to the applicant w.e.f. 4.1.80 and in view of this the pay of the applicant shall be fixed in the revised pay scale as per the order dated 11.7.91.

The application is disposed of leaving the parties to bear their own costs directing the respondents to comply with the above directions within a period of three month from the date of receipt of a copy of this order.

J.P. Sharma

(J.P. SHARMA)
MEMBER (J)
02.06.92