

(11)

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.1533/90

New Delhi this the 24th day of July, 1995.

Hon'ble Shri N.V. Krishnan, Vice Chairman (A)
Hon'ble Dr A. Vedavalli, Member (J)

Shri P.C. Gupta,
R/o 91, A.G.C.R. Enclave,
Delhi-92. Applicant

(By Advocate : Shri O.P. Khokha)

VERSUS

1. The Comptroller & Auditor
General of India,
Indraprastha Estate,
New Delhi-110002.
2. Principal Director of Audit,
Central Revenues,
I.P. Estate,
New Delhi. Respondents

(By Advocate : Shri M.K. Gupta)

ORDER (ORAL)

(Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A))

The applicant retired from the Office of the Director Audit, Central Revenues as Dy Director on 31.01.90. His grievance is that he was entitled to receive certain advance increments before he retired, which would have given him enhanced retiral benefits. This was denied to him.

2. The facts are as follows :-

2.1 Prior to 7.9.87, 2 advance increments were given to officials passing I.C.W.A (Final) examination. The Annexure 1 Circular dated 7.9.87 of the Comptroller & Auditor General of India intimated his decision that instead, six

le

increments would be given for acquiring the above qualification with effect from the date of issue of that Circular Viz 7.9.87.

2.2 Subsequently, in a decision taken by the Annexure A-3 Circular dated 14.2.89 it was intimated that those who had acquired the above qualification before 7.9.87 and also got two advance increments, would be given 4 more advance increments from 7.9.87. These 4 increments are to be given "in the scale, and the stage at which they were drawing pay scale on that date, i.e. as on 7.9.87."

2.3 Admittedly, the applicant falls in this category and subject to the satisfaction of other conditions he should have been given these 4 advance increments. However, there were some constraints. The applicant was on the pay scale of Rs.2375 -3500/- and drawing a pay of Rs.3400 on 7.9.87. His next date of increment was 1.1.88, when he would have got an increment and drawn the maximum of Rs.3500/- from 1.1.1988.

2.4 In view of the Annexure A-3 order, he was given the benefit of one increment in advance raising his pay from Rs.3400 to Rs.3500 from 7.9.1987 itself. While drawing this maximum of Rs.3500/- ^{u on} he also retired/1.1.90 after earning one "stagnation increment" of Rs.100/- which is available generally in terms of the Finance Ministry's Order dated 3rd July,1987 (Annexure R-6). That order sanctions to

6

even those who have reached the maximum of the pay scale, further increments, subject to the conditions mentioned therein. One condition is that they should have 'stagnated' at the maximum of the pay scale i.e. rendered service after reaching the maximum without getting any further increase in pay for every 2 years of stagnation one increment will be given which will be equal to the increment which takes one's pay to the maximum. Only three such increments can be given. After sanction the increments will be treated as Personal Pay.

2.5 The applicant claims that as on 7.9.87 he was entitled to be given 4 advance increments and not one. His case was recommended by his superior officer in his D.O. letter, Annexure 6. That authority tried to persuade the competent about the justice of applicant's claim by pointing out that as the 'stagnation increments' scheme has also been brought into force, it should be deemed to have raised the maximum of the pay scale from Rs.3500/- to Rs.3800/- as maximum of three increments was permissible. He, therefore, requested that, in this view of the matter, the applicant be given the advance increments to the extent permissible as stagnation increments.

2.6 This was turned down by the impugned Annexure A-7 letter in which that suggestion was rejected.

12

It was pointed that :-

"These advance increments form part of the basic pay and is to be considered for future fixation of pay etc. It cannot be granted as personal pay over and above the maximum of the scale of pay."

3. In the circumstances the applicant filed this O.A. claiming that in addition to the one advance increment given from 7.9.87 the remaining three advance increments also be given to him from the same date, by giving the benefit of the stagnation increments.

4. During the pendency of this O.A. there were some subsequent developments. The respondents created a new cadre of Senior Audit Officers/Senior Accounts Officer by upgrading 80% of the posts to the higher grade Rs.2200-4000 with effect from 1.4.1992. Consequent upon this, a further order has been issued on 1.6.1995 regarding grant of advance increments to Officers of the new cadre. With reference to the earlier order dated 7.9.1987, it was clarified that if the higher professional qualifications are acquired after 1.4.1992, the advance increments be granted in the pay scale of Rs.2200-4000. It was also provided as follows regarding those who acquired the qualification earlier;

"4. Senior Accounts/Audit Officers who became eligible to draw the advance increments with effect from a date falling between 1.4.87 & 31.3.92 shall draw the incentive increments notionally

12

in the scale Rs.2200-4000 on the due date provided the pay of the Officer has already been fixed notionally in the higher scale of Rs.2200-4000. Financial benefits of such grant of notional increments, by way of arrears of pay or pension, shall be payable from 1.4.92."

The applicant, therefore, submits that the scale of pay itself having been revised to a maximum of Rs.4000/-, there was no bar to his being given advance increments.

5. Respondents have filed a reply resisting these claims. It is contended that advance increments cannot be granted when once the maximum of the pay scale is reached. In their further reply dated 10.1.95 producing a copy of the letter dated 1.6.95 referred to in para 4 supra the respondents have stated that the "pay etc of the applicant will now be regulated in accordance with the letter of 1.6.95 and the arrears will be paid within a reasonable period."

6. We have heard the parties. In our view the claims made by the applicant have no merit.

7. Grant of advance increments is an incentive for acquisition of higher qualifications, which are felt to be desirable for better performance of duties. The concept of advance increments has certain implications, some of which have been spelt out and

12

Contd....

some are not spelt out. They are as follows;

(i) Increment(s) due at a future date are given today so that the benefit of higher pay in the time scale becomes available today itself before it is normally due.

(ii) So long as advance increments are being enjoyed no further increments are given. In other words, the advance increments are adjusted towards the normal increments as and when due. Thus, if four advance increments are given on 1.1.90, the Officer will not draw the four normal increments due to him say on 1.6.90, 1.6.91, 1.6.92 and 1.6.93. Thereupon he will be treated to be enjoying four advance increments from 1.1.90 to 31.5.90 three from 1.6.90 to 31.5.91, two from 1.6.91 to 31.5.92 and one from 1.6.92 to 31.5.93. In other words, when the normal increment falls due, it is adjusted against the advance increment.

8. From the condition mentioned at para 7(ii) above, which is stipuated in the orders, two conclusions follow;

(i) First is that advance increment will be given only if he has sufficient service left during which he can earn

2

the normal increments which are being given in advance. Thus, in the example given in para 7(ii) if the Officer was to retire on 30.4.90 itself he would not have been given any advance increment. The next normal increment was due to him only on 1.6.90. He would have retired before he earned it. Therefore, the advance increment, if given will remain unadjusted. If he were to retire on 31.10.90, he could be given only one advance increment, which he would earn before the date of retirement and can be adjusted. In other words, there is an implicit condition that only those increments can be given in advance, as could have been earned in the normal course.

- (ii) The second is a corollary to the first condition and it is this that, in any case, the grant of advance increments could raise the pay to a stage beyond the maximum of the pay scale, even if the officer has many more years to retire. This is again due to the fact that the advance increments will remain unabsorbed not because the Officer was retiring before he earned the

Contd..

instalments but because of the fact the scale of pay does not permit the earning of any instalment after the maximum is reached.

9. However, in the instant case the applicant was entitled to get only one advance increment from 7.9.87, which he would have got on 1.1.88 that took him to the maximum of the pay scale. No advance increment can be given thereafter. Hence though the Annexure A-1 Circular permits grant of 4 increments he could get only one advance increment.

10. The plea of his superior officer that the scheme of stagnation increments has the effect of raising the maximum of the pay scale to accommodate advance increments is meaningless. That scheme is intended to benefit only a certain class of persons and its purpose is entirely different. In order to ameliorate the plight of persons who reach the maximum of a pay scale and who have to stagnate there for no fault of theirs, that scheme has been evolved. No doubt, three stagnation increments can be earned. But that cannot be given to a person who has not stagnated at the maximum of the pay scale to qualify to get these increments.

11. That takes us to the issue whether the applicant's case is covered by the later order dated 1.6.95 referred to in para 4 above.

In the amended O.A. the applicant has, inter alia, prayed as follows:-

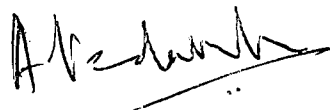
- (iv) The benefit of advance incentive increments may be allowed for the fixation of notional pay in the scale of of Rs.2200-4000 and the authorities be directed to raise the pay of the applicant to Rs.4000/- w.e.f. 7.9.1987. The subsequent increment as admissible may also be granted and all consequential benefits including retirement benefits may be directed to be sanctioned and released.

ⁱⁿ This is the context of the creation of the cadre of Senior Audit Officer referred to in para 4, though it has not been mentioned in the O.A. As the respondents have stated that the case of the applicant would be considered in the light of the letter dated 1.6.95 filed by them with the additional reply and referred to in para 4, this has only to be disposed of with suitable directions to the respondents.

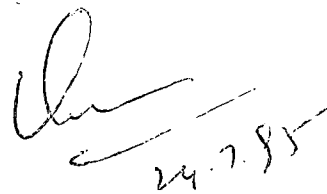
12. We have stated the principles governing the grant of advance increments in para 7 and 8 supra in the context of the claim for 4 more advance increments from 7.9.87 arising out of the Annexure A-1 Circular. This, however, will not stand in the way of the respondents from considering the prayer of the applicant ^{extended} ^{fact} in para 11 above with reference to the letter dated 7.9.95, as undertaken by them in their

Contd...

additional reply dated 10.7.95. We direct the respondents to so consider the case of the applicant and pass appropriate order within two months from the date of receipt of this order. O.A. is disposed of with this direction. No costs.



(Dr A. Vedavalli)
Member (J)



(N.V. Krishnan)
Vice Chairman (A)

SSS