

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

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Date of Decision: 24.04.92

OA 1579/90

G. AMJAD HUSSAIN

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

For the Applicant

... Shri Gyan Prakash,
Counsel.

For the Respondents

... Shri K.L. Bhandula,
Counsel.

CORAM:

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

1. Whether Reporters of local papers may be allowed to see the judgement ?

2. To be referred to the Reporters or not ?

JUDGEMENT

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

The applicant, joined as Supervisor on 13.11.1970 in the Ministry of Water Resources. He went on deputation on Water and Power Development Consultary Service as Sub-Professional on 9.3.1979 and remained there till 8.3.1982. On 9.3.1982, the applicant again joined as Supervisor in his parent department. On 30.11.1982,

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he was promoted as ^{Extra} Additional Director/Assistant Engineer in short (AED/AE). The grievance of the applicant is that a person junior to him Shri S.K. Das was promoted on ad-hoc basis on 11.9.1981 on the basis of wrong seniority list where said Shri S.K. Das ^{was} shown senior to him. The applicant made a representation on 27.2.1987 and by the order dated 23.8.1989 and 20.11.1989, seniority list was corrected and the position of the applicant which was at Sl.No.358 in the seniority list of 30.11.1984 was corrected to Sl. No.321(A) in the seniority list of 2.3.1985 and the position of S.K. Das was shown below him at Sl.No.322. The applicant was also given regular promotion of E.A.D./A.E. w.e.f. 31.12.1984 vide order dated 9.2.1990. Shri Das got a regular promotion to the post of E.A.D./A.E. in 1986. The applicant represented as there was anamoly in pay on 1.3.1990 as well as ^{on} 29.5.1990 that he should also be given adhoc promotion w.e.f. 11.9.1981 but this representation of the applicant was rejected by the order dated 30.5.1990 and 11.6.1990 respectively.

2. In this application, the applicant claimed the relief that ^(a) the applicant be given adhoc promotion as E.A.D./A.E. w.e.f. from the date junior to the applicant Shri S.K. Mukherjee and Shri S.K. Das were given adhoc promotion on the same post and refix the pay of the

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applicant in the grade w.e.f. 21.7.1981 with all consequential benefits including increments etc.

(b) The respondents be directed to pay arrears of salary and allowances etc. w.e.f. 9.3.1982 along with interest.

3. The respondents contested the application stated that the application is mis conceived. When the applicant was working on deputation with W.A.P.C.O.S. Ltd., Shri Das along with others were then senior to the applicant and so promoted as E.A.D./A.E. on adhoc basis. The applicant on his repatriation from deputation, assumed charge of the post of Junior Engineer, feeder post for promotion to the grade of EAD/AE, as none of his juniors was working as EAD/AE even on ad-hoc basis. The seniority of the applicant was revised subsequently and he was placed above Shri S.K. Das. The revision of the seniority list does not give any right for refixation of pay at par with the officials who were earlier promoted and performed the duties of the higher post while he was promoted later on, initially on ad-hoc basis ^{on} and regular basis subsequently. Stepping up the pay of the applicant is not permissible under rules because Shri S.K. Das was promoted to the post of EAD/AE on 11.9.1981 at the time when in the seniority list he was senior to the applicant. Since the applicant was

junior at that time, he was promoted on ad-hoc basis on 30.12.1982. Thus, on 1.12.1982, the pay of Shri S.K. Das was already 710/- while the pay of the applicant on the date of his promotion i.e. 30.12.1982, was Rs.650/-. Thus, the applicant was in receipt of less pay in the grade of Junior Engineer in relation to Shri S.K. Dass.

4. I have heard the learned counsel for both parties at length and have gone through the records of the case. The learned counsel for the applicant also referred to the cases of N.K. Bhatt Vs. UOI AIR 1987 Vol.-I CAT Page 572, Dev Dutt Sharma Vs. UOI 1991 (16) ATC Page 356. In both these cases, the benefit of increment and earlier fixation of pay by stepping up the pay of the senior to that of the junior has been given. The learned counsel for the applicant has also relied on the judgement of V.V.G. Rao Vs. UOI, OA 1096/88 decided by Principal Bench on 3.7.1989. And the decision in the case of P.P. Abdul Rehman Vs. UOI & Ors., OA 1521/89 and along with this OA four other Original Applications were also disposed of by the Principal Bench on February 28, 1990, wherein the benefit of pay was given to the applicants from the date of ad-hoc promotion of their junior and their pay was stepped up.

5. I have given a careful consideration to the main issue involved in this case. The applicant went

on deputation in March, 1979. At that time Shri S.K. Das and Shri S.K. Mukherjee was shown senior to him in the grade of Supervisor. The applicant did not challenged that seniority list. On the basis of that seniority list in their own turn, they got ad-hoc promotion w.e.f. July, 1981. The applicant came on repatriation to the parent department in March, 1982 and he joined as Supervisor. The applicant was also given a promotion as EAD/AE on 30.11.1982. The applicant never challenged seniority list. Now a challenge was made by the applicant when already his juniors were promoted and that pertain to the seniority list of EAD/AE. That seniority list has been corrected and the applicant has been shown senior to Shri S.K. Das and Shri S.K. Mukherjee. Thus, it is not a case which can be equated with the other cases cited by the applicant. In the present case, the seniority has been revised but the date of revision of the seniority will not upset the vested rights which were gained by some persons. It is because of this fact that the applicant has been given the regular appointment as EAD/AE w.e.f. December, 1984 while his juniors Shri S.K. Das and Shri S.K. Mukherjee were regularised w.e.f. June, 1986. The benefit, the applicant may get, shall be available to him for the next higher promotion. There is no rule where the pay of the applicant can now be stepped up

because fixation of the pay has been at a time when there was un-challenged seniority list and the applicant was admitted^{by}/junior at that time.

6. In view of the above observations I do not find substance in this case. It is, therefore, dismissed leaving the parties to bear their own costs.

J. P. Sharma
24.4.92
(J.P. SHARMA)
MEMBER (J)