

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A. No.
T.A. No.

1704/90 1990

DATE OF DECISION 18.1.1991

Shri Mohan Singh

xPetitioner Applicant

Shri S.K.Bisaria

Advocate for the xPetitioner(s) Applicant

Versus

The Chairman, Central Board of
Direct Taxes & anr.

Respondent

Shri R.S.Aggarwal,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K.CHAKRAVORTY, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? / No
4. Whether it needs to be circulated to other Benches of the Tribunal? / No

JUDGEMENT(Judgement of the Bench delivered by Hon'ble
Mr. D.K.Chakravorty, Member(A))

The grievance of the applicant is two-fold, namely (i) transferring him from D.C.Range 4 to the Judicial Section of the office /the Commissioner of Tax, New Delhi in the capacity of Duftary by the impugned order dated 31.3.90, and (ii) denial to him of the pay of Gestetner Operator.

2. The applicant joined the service of the respondents on 16.11.79 in Grade IV service as Peon. At that time, he was already trained as Machine Operator(Gestetner Operator) from Hindustan Duplicator Services(India) and the said organisation has issued a certificate to him

on 16.4.79. He was appointed as Gestetner Machine Operator vide letter dated 11.1.80 with effect from 4.12.79 until further orders. He has been continuously working as such since then all these years.

3. The applicant was promoted as Duftary vide order dated 19.4.89

4. The applicant was transferred to the Judicial Branch on 31.5.90. According to him, that was with a view to denying and depriving him of the benefit of working as a Machine Operator.

This has been denied by the respondents.

5. The applicant ^{state, that he} has been receiving a special allowance of Rs.20 per month from 1979 onwards for discharging the duties of Gestetner Operator. He claims the regular pay scale of the post of Gestetner Operator.

6. The respondents have stated in their counter-affidavit that the applicant was granted special pay of Rs.10 per month with effect from 4.12.79, that his transfer to Judicial Section was as per the transfer policy of rotating officials which enable them to have varied experience, that he was appointed as a Peon and was performing the duties of Peon only and not of a mechanic, that no order appointing him as Machine Operator has been passed by them and that he does not fulfil the eligibility criteria prescribed under the rules for promotion to the post of Gestetner

Operator.

7. We have carefully gone through the records and have considered the rival contentions. During the hearing, the learned counsel of the applicant did not press the grievance of the applicant relating to his transfer from one section to another section but strongly pleaded that the applicant is entitled to the protection of equal pay for equal work on the basis of the judgement of the Supreme Court in the Dharward District P.W.D Literate Daily Wage Employees Association Vs. State of Karnataka, 1990(1)Scale 288.

8. Regular appointment to the post of Gestetner Operator is regulated by the Income Tax Department (Group D) Recruitment Rules, 1990. Dafataries/Jamadaars with 2 years' regular service in the grade, having proficiency in operating and maintaining Gestetner Machine is eligible for promotion to the post of Junior Gestetner Operator in the scale of pay of Rs.800-1150. The applicant will become eligible for such promotion with effect from 19.4.91. Therefore, we direct that the respondents shall consider the suitability of the applicant for promotion to the post of Junior Gestetner Operator and if he is found suitable, he should be appointed as such with effect from 19.4.91. With regard to his claim for equal pay for equal work, the applicant

has not produced any order appointing him to the post of Gestetner Operator. He has, however, been granted special pay of Rs.10 per month since 4.12.79 for working on the Gestetner Machine which appears to be nothing more than a token payment. In case he was also not being paid overtime allowance in addition to the special pay of Rs.10 per month, we feel that the applicant deserves to be compensated for the extra work done by him by giving him honorarium/ overtime in accordance with the rules. We do not, however, propose to give any directions to the respondents in this regard.

9. The application is disposed of accordingly at the admission stage itself. There will be no order as to costs.

D.K.Chakraborty
(D.K.CHAKRAVORTY)
MEMBER 18/1/1981

P.K.Kartha
(P.K.KARTHA)
VICE CHAIRMAN