

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.A. No. 1794/90

DATE OF DECISION : 13.04.92.

Shri P.N. Gupta

...Applicant

Vs.

Union of India

...Respondent

CCRA-I

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

For the Applicant

...Shri K.N. R. Pillay

For the Respondent

...None

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

JUDGEMENT

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

The applicant, Assistant Engineer, Electrical Construction Division III, CPWD being aggrieved by the Memorandum dt.16.5.1989 issued by Directorate General of Works, CPWD on the subject of crossing of EB by said Shri P.N. Gupta wherein he was informed that as he has opted for the revised scale of pay w.e.f. 1.1.1986 and his pay has been fixed in that scale accordingly, the question of consideration of his crossing of EB at the stage of Rs.310 in the old scale w.e.f. 16.11.1983, the date following the date of his passing the departmental examination does not arise.

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2. The applicant has claimed the relief of quashing of this order dt.16.5.1989 and directing the respondents to treat the applicant as having notionally crossed the EB on 1.1.1984 and his pay from that date onwards be refixed with all consequential benefits including arrears of pay and allowances from 16.1.1988.

3. The case of the applicant is that as Assistant Engineer in the pay scale of Rs.650-1200 from 1.5.1985, he was due to cross the EB raising his pay from Rs.310 to Rs.345 and in case the officer is not allowed to cross the EB, a specific order has to be passed in that case. The applicant was granted exelerated promotion from January, 1979 and the pay of the applicant was refixed by the Office Order dt.3.2.1989. The pay of the applicant became Rs.810 on 1.1.1983 and the due date for crossing the EB was thus shifted to 1.1.1984. The DPC met in the year 1986 and as a consequence, the applicant was granted exelerated promotion. Thus the date of EB got shifted from 1.5.1985 to 1.1.1984. The applicant has further stated that the EB was postponed because he had not passed the departmental examination in accounts. There is also a provision in the rules that a person who has crossed the age

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50 years, can be granted exemption from the accounts examination and can be considered for crossing the EB.

The applicant crossed the age of 50 years on 10.4.1987.

The applicant also passed the accounts examination held on 15.1.1988. As a result of this, the applicant now claims the crossing of the EB w.e.f. 1.1.1984 on the basis of FR 26. It is further stated by the applicant that his pay has been fixed in the revised pay scale of Rs.2000-3500 w.e.f. 1.1.1986 at Rs.2375 at the stage of B.310 in the prerevised scale and if the applicant was given the benefit of crossing the EB, then his pay would have been fixed at a substantially higher stage.

4. The respondents contested the application and took the plea that the application is barred by limitation.

On facts it is stated that the applicant was not allowed to cross the EB as he had neither passed the departmental accounts examination nor he had crossed the age of 50 years. The EB of the applicant was due on 1.1.1985 and till the revised pay scale came w.e.f. 1.1.1986, the applicant was not eligible for crossing the EB, so the pay of the applicant was fixed at Rs.2375. In the revised pay scale of Rs.2000-3500, the EB is at the stage of Rs.2300 and since the pay of the applicant was fixed at Rs.2375, the EB stage in the revised

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pay scale stood automatically crossed. Thus according to the respondents, the applicant has no case.

5. The case was taken up on 25.3.1992, but none appeared for the parties and since the pleadings were complete, the case has been reserved for judgement. The present application has been filed by the applicant on 31.8.1990. The impugned order which has been challenged is dt.16.5.1989. The applicant has also preferred an appeal against the order dt.17.2.1990 (Annexure A4), that has not yet been disposed of. Thus it cannot be said that the present application is barred by time.

6. On merits, the applicant has himself stated that the EB at the stage of Rs.810 could have been crossed only after the passing of the departmental examination. The stage of Rs.810 was reached by the applicant on 1.1.1984 as a result of accelerated promotion on the recommendation of the DPC which met in 1986, otherwise also it was due on 1.5.1985, i.e., before the revised pay scales came into effect. Neither on 1.5.1985 nor on 1.1.1986, the applicant has completed the age of 50 years which allowed a relaxation in the case of crossing of the EB. Even non passing of the

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departmental examination at that stage made a person eligible for the grant of further rise in the pay. The Department of Personnel has also given the same opinion to the respondents. The applicant relies on the standing orders in force in the department whereby, according to the applicant, where the EB Committee postpones the crossing of the EB for the reason, but the officer has not passed the departmental examination and when later the officer passes the examination, his suitability for crossing the EB on the due date has to be assessed and if he is found suitable, notionally crossing from the due date for proforma fixation of pay is admissible. However, there is any such order in force. That order stands modified by virtue of the enforcement of the revised pay scale w.e.f. 1.1.1986. In the revised scale of 1.1.1986, the EB was due in the case of the applicant at Rs.2300 and his pay has already been fixed one stage next at Rs.2375. So the benefit of the passing of the departmental examination after 1986 would not give him any benefit in the old pay scale which for all purposes stood substituted by the revised pay scales. Thus the impugned order cannot be said to be in any way not according to the rules. The applicant wants to place reliance for the benefit of the past service under FR. In the present case, the passing of the EB was not

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considered for postponement nor the applicant has any case on that account. The simple case stated by the applicant is that in spite of the passing of the departmental examination or not having crossed the age of 50 years, he could have been given the benefit of the crossing of the EB in the old scale after he has successfully passed the accounts examination on 15.1.1988. However, when the applicant has passed this examination, the old scale did not exist. That matter may be considered now at the next stage of EB in the pay scale of Rs. 2000-3500.

7. The present application, therefore, is devoid of merit and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
13.4.92

(J.P. SHARMA)
MEMBER (J)