

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2014/90
T.A. No.

199

DATE OF DECISION 31.5.1991

<u>Shri Naresh Kumar & Others</u>	Petitioner Applicants
<u>Shri Sant Lal</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India & Another</u>	Respondent
<u>Shri K.L. Bhandula</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
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 of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Administrative Member)

The applicants, who are working as Deputy Directors in the Central Water Commission, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) To direct the respondents to grant similar benefits of judgements dated 25.4.1989 in the case of O.P. Khanda (OA-2377/88), A.K. Jain (OA-809/89) and Devendra Sharma (OA-827/89) to the applicants who are similarly placed;

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- (ii) to refix their pay in the pre-revised and revised scale of pay of Rs.1100-1600/3000-4500 giving them the benefit of ad hoc promotion as Deputy Directors followed by their regular promotion without any break and pay the arrears in the same manner as is done in the cases of the aforesaid three officers;
- (iii) to award the costs of this application; and
- (iv) to grant such other relief as this Hon'ble Tribunal deems fit in the circumstances of the case.

2. The facts of the case in brief are as follows. The applicants joined service as Assistant Directors in the Junior Time Scale of Rs.700-1300 under the Central Water Commission in the Ministry of Water Resources on the dates noted against each applicant below on the basis of their selection through the Central Engineering Service Examination conducted by the Union Public Service Commission. They were promoted to the posts of Deputy Directors in the senior Time Scale of Rs.1100 (6th year or under)-50-1600 on ad hoc basis w.e.f. the dates mentioned against each as

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indicated below:-

Sl.No.	Names of Applicants	Dt. of apptt. as Asstt. Dir.	Dt. of <u>ad hoc</u> promotion as Dy. Dir.
1.	Sh. Nareesh Kumar	8.10.1976	22.1.1981
2.	" S.K. Banerjee	25.9.1976	27.1.1981
3.	" K.K.M. Menon	25.11.1976	5.10.1981
4.	" M.K. Chowhan	13.10.1977	18.6.1982
5.	" S.C. Gupta	14.10.1977	14.4.1982
6.	" B.N. Sharma	15.10.1977	22.4.1982
7.	" A.B. Pandya	24.10.1977	24.4.1982
8.	" Rajesh Dham	28.9.1978	14.9.1983
9.	" S.K. Gupta	4.11.1978	1.3.1983
10.	" S.K.G. Pandit	20.3.1979	31.3.1983.

3. The pay of the applicants was fixed in the grade of Deputy Directors (Senior Time Scale) on the dates of their ad hoc appointments/promotions and they drew their first increment on the dates they completed one year's service as Deputy Directors on completion of sixth year of service raising their pay to the stage of Rs.1150/-.

4. The ad hoc promotion of the applicants was allowed by regular appointments in the grade of Deputy Director in the scale of Rs.1100 (sixth year or under)-50-1600 w.e.f. 22.1.1985 without any break vide orders dated 24.6.1985, 5.7.1985 and 31.1.1986.



5. On promotion of the applicants in the grade of Deputy Director on regular basis w.e.f. 22.1.1985, their pay was refixed with reference to their notional pay of Assistant Director in junior Time Scale of Rs.700-1300, ignoring the service rendered by them in the senior Time Scale of Deputy Directors on ad hoc basis which counts for increments under FR-26. In this way, the refixation of pay on promotion on regular basis w.e.f. 22.1.1985 has resulted in loss to the applicants as they are denied the benefit of ad hoc service.

6. S/Shri O.P. Khanda, A.K. Jain and Devendra Sharma, the colleagues of the applicants, filed their applications under Section 19 of the Administrative Tribunals Act, 1985 before this ~~xxxxxx~~ Tribunal (registered as OA-2377/88, OA-809/89 and 827/89) seeking reliefs for giving benefits of ad hoc promotion to the higher grade of Deputy Directors followed by their regular promotion as Deputy Director w.e.f. 22.1.1985 towards fixation of their pay and consequential arrears. In judgement dated 25.4.1989, the Tribunal allowed the above applications and directed the respondents to refix their salary and pay them the arrears due to them within three months. Thereafter, the respondents implemented the judgement. The representations made by the

applicants for extending to them similar benefits, did not receive any favourable response.

7. The applicants have stated that Shri A.K. Jain, who joined service as Assistant Director on 2.3.1979 and was promoted as Deputy Director on ad hoc basis on 31.3.83 and given the benefit of counting ad hoc promotion towards fixation of pay vide order dated 21.7.1989 (Annexure A-5), is junior to seven applicants. Therefore, similar benefits cannot be denied to the seniors in fixation of their pay.

8. The plea of the respondents in their counter-affidavit is that since the applicants were not a party before the Hon'ble Tribunal in the above mentioned case, and as ^{the} above order of Hon'ble Tribunal was in respect of the three applicants only, it was decided by the Ministry of Water Resources, the Cadre Controlling Authority of Central Water Engineering (Group 'A') Service, to which the applicants belong, in consultation with the Department of Personnel & Training, that the above order can be implemented in respect of three officers in whose favour alone the Principal Bench of this Tribunal was pleased to pass the orders of refixation.

9. We have carefully gone through the records of the case and have considered the rival contentions. There is


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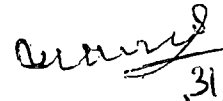
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ample authority for the proposition that persons similarly situated should be given the same treatment and the fact that they have not approached the Court, should not place them at a disadvantage (vide Inder Pal Yadav Vs. Union of India, 1985 SCC (L&S) 526; Amrit Lal Berry Vs. Collector of Central Excise, 1975 (1) SLR 153; M/s Star Diamond Co. India Vs. Union of India, A.I.R. 1987 S.C. 179; Prof. C.D. Tase Vs. University of Bombay, J.T. 1989 (1) SC 364).

10. In the light of the above, the applicants are entitled to succeed in this case. The respondents are directed to grant similar benefits of judgements dated 25.4.1989 in the cases of O.P. Khanda (OA-2377/88), A.K. Jain (OA-809/89), and Devendra Sharma (OA-827/89) to the applicants who are similarly placed. The respondents shall fix the salary of the applicants giving them the benefit of ad hoc promotion as Deputy Directors followed by their regular promotion without any break and pay the arrears in the same manner as was done in the case of the aforesaid three officers. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order.

There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)