

13

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.2114/90

New Delhi, This the 15th Day of September 1994

Hon'ble Shri P.T.Thiruvenagadam, Member(A)

Shri V K Kapur, JSO  
Quality Assurance Estt Naval  
H.No.64 Sector 16A Faridabad

...Applicant

By Shri K B S Rajan

Versus

Secretary  
Govt of India  
Ministry of Defence  
Dept of Defence Production  
South Block  
New Delhi 110011

Director General  
Directorate General of Quality Assurance  
Ministry of Defence  
South Block  
New Delhi 110011.

...Respondents

O R D E R(oral)

Hon'ble Shri P.T.Thiruvenagadam, Member(A)

1. It is an old case filed in the year 1989 in CAT Bombay. Though none appeared on behalf of the respondents, in view of the case being five years old, the OA is being disposed of based on the arguments advanced by the learned counsel for applicant and the written statement of the respondents available on record.
2. In the OA two reliefs have been claimed namely expunging of adverse remarks relating to the year 1986 and release of increment across efficiency bar which should have been effected on 1.10.84. At the time of argument the learned counsel for the applicant prays only for the latter relief and does not press the relief regarding expunging of the adverse remarks relating to the year 1986.

3. It is the case of the applicant that he was due for increment on 1.10.84 having reached Rs.1000 on 1.10.83 in the scale of Rs.650-1200. However, he was not granted increment on 1.10.84 and was not allowed fixation from Rs.1000 to 1040. It is his case that he made representations for the grant of increment from 1.10.84 but that these have not been favourably considered. The case of the respondents is explained in para 17 of the written statement. This para reads as under:

"Para 17. With reference to para 8(ii) of the application the Respondents submit that the increment across EB w.e.f. 1.10.1984 was required to be granted to the applicant by the Competent Authority under FR-25. The crossing of EB as per existing rules, is to be considered on the basis of the service records for the said period. The case of the applicant was considered by the Competent Authority twice on the basis of poor service records for the years 1984 and 1985 in the years 1985 and 1986 respectively. After observation of the service records of the applicant the Competent Authority opined that the applicant was 'Not yet fit' in 1985 and 1986 to cross the E.B. Later on, the recommendations of the IV th pay commission were accepted and implemented w.e.f. 1.1.1986. Accordingly the pay of the applicant was fixed at Rs.2825/- w.e.f. 1.1.1986 in the revised scale of Rs.2000-60-2300-EB-75-3200-3500 and subsequently, annual increments were being granted regularly to the applicant. There was no E.B. after the stage of Rs.2825/- where the applicant may be allowed to cross the same. As such the question of issuing orders by the Competent Authority in accordance with Rule 29A FR to allow the applicant to cross E.B. in the old scale does not arise."

4. The learned counsel for the applicant referred to Govt of India orders under FR 25 relating to the subject of efficiency bar. Specifically a reference was made to para 2.2 and 2.5 which reads as under:-

" Para 2.2. The following time-schedule may be adopted for considering the E.B. cases:-

Months during which the date of crossing the EB falls	Months in which E.B. cases should be considered by the D P C.
---	---

January to March

January

April to July

April

August to October

July

November and December

October

According to the above time-schedule, E.B. cases falling ~~Jan to March~~ are cleared in Jan and cases falling during the months of ~~April to July~~ in the month of

April. It would be necessary to get the confidential reports in respect of these persons for the immediately preceding year written on priority basis during the first fortnight of Jan/April itself so that the consideration of these cases is not delayed beyond the months of January and April. In respect of cases of E.B. becoming due during the months of August to December, it would not be necessary to obtain special reports as a matter of course for the incomplete portion of the year for which regular confidential reports are not due.

Para 2.5. In the event of D.P.C. being convened after a gap of time following the date on which the Government servant became due to cross the E.B., the Committee should consider only those confidential reports which it would have considered had the D P C been held as per the prescribed schedule. If the Government servant is found unfit to cross the bar from original due date, the same DPC can consider the report for subsequent year also, if available, to assess his suitability in the subsequent year."

5. A perusal of the above documents brings out that the record of service for consideration in relation to the applicant is the confidential reports immediately preceding the year 1984. Even, if the DPC <sup>was</sup> convened later the records of performance for consideration would not be different. From the reply of the respondents quoted supra I note that the alleged poor service records for the years 1984 and 1985 have been held against the applicant and hence he was not allowed to cross the efficiency bar. The DPC should not have ~~already~~ considered the records for the year 1984 and later as far as the applicant is concerned.

6. Under the circumstances the respondents are directed to re-constitute a fresh DPC for considering the case of the applicant for crossing EB on 1.10.84 strictly following the Govt of India Orders on the subject and specifically restricting consideration to the CRs for the periods prior to 1984. The above direction should be implemented within a period of 3 months from the receipt of this order. It is needless to add that the applicant will be eligible for further pay fixation if he is declared eligible to cross the EB not only from 1.10.84 but also from 1.1.86 onwards. The OA is disposed of with the above directions. No costs.

P. T. Thiruvenkadam

(P.T. THIRUVENGADAM)  
Member (A)

LCP