

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.25/1990

03.03.1992

Shri M.M. Gupta

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

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

For the Applicant

...Shri T.C. Aggarwal

For the Respondents

...Shri A.K. Behra, proxy
counsel for
Shri P.H. Ramchandani

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

JUDGEMENT (ORAL)

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

In this Original Application, the applicant is aggrieved by non crossing of EB from 1.12.84 when he was working as Pay and Accounts Officer in the pay scale of Rs.840-40-1000-EB-40-1200/-. The crossing of EB was disallowed by the DPC which was held sometimes in 1985. However, it appears that the applicant has been confirmed from 1.5.85. From 1.1.86, the recommendations of the Fourth Pay Commission have been introduced and the pay scale has been revised to that of Rs.2375-75-3200-EB-100-3500. The learned counsel for the respondents contested the application and filed one

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reply to the admission itself taking the plea of limitation and the other detailed reply on merits of the case along with a number of annexures to support the various contentions raised in the counter reply.

2. After hearing the parties, the learned counsel, Shri T.C. Aggarwal wanted to effect certain amendments in the Original Application to agitate the matter on the basis of OM of Finance Ministry dt. 18.9.91 (Annexure-M to the M.P.).

3. Without considering the case on merit, the learned counsel for the applicant wants to withdraw the application with liberty to move afresh to the Department for consideration of the case of the applicant for crossing of the EB w.e.f. 1.12.85 in accordance with the OM No. F 7(28) E.III/91 dt. 18.9.91 issued by the Ministry of Finance. This OM in para-2 clearly lays down that the cases of those employees which have not been considered for crossing of EB before 1.1.86, may be considered by a Review DPC on the basis of the guidelines issued in OM dt. 30.3.89 referred to in the above OM of 1991.

4. The applicant has since been confirmed from 1.5.85 and the case of the learned counsel for the applicant has been that in the year 1985, his case ^{has} not been considered for the crossing of EB at the stage of Rs. 1,000 in the pay scale of Rs. 840-1200. Taking all these facts into account, I find that a cause of action has arisen to the applicant by virtue of the OM of 1991.

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5. The learned counsel for the applicant has not taken shelter of this OM in this Original Application which has been filed earlier to the coming into force of the OM, sometimes in January, 90. On the basis of this, the learned counsel for the applicant wants that the points agitated in the OA may not be adjudicated upon and the applicant be allowed to withdraw this application to move the respondents administratively on the basis of the OM of 1991, referred to above, and if the applicant is still aggrieved on the decision referred to on the basis of the OM of 1991, a liberty be given to him to come afresh to the Tribunal. The learned counsel for the respondents, however, pointed out that the crossing of EB ^{could} only be considered w.e.f. 1.12.85 and not earlier, i.e., w.e.f. 1.12.84 in view of the OM of 1991, on the basis of the recommendations of the Review DPC on the basis of the relevant guidelines given in the OM of 1989 referred to above.

6. The applicant is allowed to withdraw the Original Application to make representation within two months to the respondents on the basis of OM dt.18.9.91 for considering his case for crossing of EB w.e.f. 1.12.85 only and in case he is still aggrieved, he may seek the remedy advised under the Administrative Tribunals Act, 85. In the circumstances the parties to bear their own costs.

AKS

J. P. Sharma
(J.P.SHARMA) 3/1/92
MEMBER(J)