

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(11)

O.A.No.1774/92.

Date of decision 5-5-93

Shri S.K. Das ... Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Shri B.S. Hegde, Member (Judicial).

For the Applicant ... Shri K.L. Bhandula, counsel.

For the Respondents... Ms. Jaswinder Kaur, counsel.

(1) Whether Reporters of local papers may be allowed
to see the Judgement ?

(2) To be referred to the Reporters or not ?

J_U_D_G_E_M_E_N_T

Delivered by Hon'ble Shri B.S. Hegde, Member (J) 7

The applicant has filed this application under
Section 19 of the Administrative Tribunals Act, 1985
praying for the following reliefs :-

(i) To refix the applicant's pay in the

grade of Extra Assistant Director/

Assistant Engineer w.e.f. 31.10.1991

at the level of pay drawn by his junior

Shri Senat Kumar Ghosh with consequential
benefits of increments, allowances etc.

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(ii) To pay arrears of pay, allowances,

increments etc. consequent on the

refixation of his pay.

(iii) To award the cost of proceedings.

2. The applicant was promoted as Extra Assistant Director/Assistant Engineer on ad hoc basis with effect from 9.12.1982 whereas his juniors were promoted on 28.4.1983 and 28.10.1983 respectively. Thereafter, the applicant was selected for deputation to the National Water Development Agency at Bhopal as Assistant Engineer and joined there in 1984. The deputation was undisputedly in the public interest. He was repatriated in the year 1988 to his parent department as Junior Engineer but was not promoted as Assistant Engineer on ad hoc basis, whereas his juniors continued as Assistant Engineer/Extra Assistant Director on ad hoc basis without break, in long-term vacancies. His request for promotion as Assistant Engineer on ad hoc basis was not considered but he was given an assurance that as and when he was promoted as Assistant Engineer/EAD on regular basis, his pay will be fixed at par with his juniors.

3. The respondents in support of their contention

relied upon the O.M. of the Ministry of Finance

dated 12.5.1982 which is reproduced below :-

" The pay of the senior official cannot be stepped up because the promotion of the junior officer to the higher grade has has been made on ad hoc basis. After the promotion of the junior official is made regular without any break in the service in the higher grade, the pay of the senior official may be considered for stepping up to the level of the pay drawn by the junior official retrospectively under F.R. 27 in consultation with the Ministry (Ministry of Finance)." .

4. During the course of hearing, both the counsel conceded that the subject matter stands covered by the decisions of this Bench in O.A.No.

1521/89, Transferred Application No. 1/88 - S.V.

Rangaiah Vs. The Chairman, Central Water Commission
and Another, decided by the Hyderabad Bench of the CAT; O.A. No. 1095/88 of Principal Bench and O.A. No. 753/88 of Principal Bench. In this case also, proper fixation of pay has not been done by the respondents despite the request made by the applicant.

5. Keeping in view all the judgements of the

Central Administrative Tribunal, it is obligatory

for the cadre authorities to protect the interest

of those who are working outside the cadre. It is

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apparent that the reasons assigned by the respondents

in denying the benefits to the applicant are against

rules and the principle of natural justice. The

applicant has prayed for refixation of his pay on

return from deputation at the level of pay drawn by

his juniors with the consequential benefits.

6. Being aggrieved by the impugned order dated

13th May, 1991, the applicant has filed this O.A.

on 9th July, 1992, praying for refixation of his

pay in the grade of Assistant Engineer/EAD w.e.f.

31.10.1991 at the level of pay drawn by his juniors

with consequential benefits including increments and

for payment of arrears of pay and allowances consequent

on refixation of his pay etc.

7. It is on record that while the applicant was on

deputation, he was not informed about the orders of

promotion of his juniors nor was he given an opportunity

to exercise his option as to whether he should continue

on deputation or return to his parent department to

avail himself of his promotion. Therefore, he contends

denial/rejection of his pay at par with juniors is

against the principle of natural justice which is arbit-

rary and requires to be quashed.

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8. I have heard the counsel for both the parties.

During the course of the hearing, counsel for the respondents Ms. Jaswinder Kaur, argued that in view of the catalogue of decisions laid down by the Tribunal, the reliefs sought by the applicant have been denied though representation made in this behalf to the competent authority have been rejected without any valid reasons. As a matter of fact, the respondents have admitted that the applicant is entitled to the reliefs and also conceded that no option was given to the applicant while he was on deputation on long-term basis. On the face of it, the request of the applicant is reasonable. Since the subject matter ^{also} stands covered by the judgement in OA No. 1621/1989 -

Shri P.P. Abdurahaman v/s Union of India and connected cases referred to above. The O.A. has to be allowed.

Accordingly, the respondents are directed to pay the applicant on par with the pay fixed in respect of his juniors who are appointed on ad hoc basis when he was on deputation. The respondents should calculate the arrears of pay and allowances and pay the same

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within a period of three months from the date of

receipt of this order. No order as to costs.

B. S. Hegde 575793
(B.S. Hegde)
Member (J)

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