

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(7)

O.A. NO. 2512/92

DECIDED ON : 15.04.1993

Amar Nath ... Applicant

Vs.

Union of India & Anr. ... Respondents

CORAM : The Hon'ble Shri S. P. Mukerji, V. C. (A)
The Hon'ble Mr. J. P. Sharma, Member (J)

Shri R. P. Oberoi, counsel for Applicant
Shri O. P. Kshatriya, counsel for Respondents

J U D G M E N T (ORAL)

Hon'ble Shri S. P. Mukerji, V. C. (A) :-

The short point in this case is whether the applicant who has already been given retrospective promotion from the post of LDC to UDC with effect from 4.12.1986 vide the respondents' order dated 22.10.1990 (Annexure A-VII), can be deprived of arrears of the higher pay of UDC from that date on the ground that the applicant did not work as a UDC for the period from 4.12.1986 to 20.6.1989, when he actually took over as UDC. The respondents themselves issued even further order dated 26.12.1990 (Annexure A-VIII) in which he was allowed to draw arrears of pay and allowances w.e.f. 4.12.1986. The learned counsel for the respondents could not show us any order by which the order dated 26.12.1990 was withdrawn. The respondents by the impugned order have taken the stand that the order

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passed by this Tribunal in similar cases cannot be applied to the applicant. The case of the respondents is that the order dated 26.12.1990 could not be implemented and arrears could not be paid to the applicant because of the caveat entered by the Ministry of Finance to whom a reference was made on 21.1.1991 (Annexure A-X).

2. Having heard the learned counsel for both parties and gone through the documents, we find that the applicant is fully entitled to the arrears of pay as allowed to him by the order dated 26.12.1990 which has not yet been withdrawn. This application is fully covered by the judgment of this Tribunal in *Mrs. Asha Rani Talwar & Ors. vs. State of Haryana & Ors.* : 1983 (1) SLR 400 and *Mohan Singh vs. Union of India* : 1991 (1) ATJ 596. This application is further strengthened by the fact that the respondents themselves having issued the order at Annexure-VIII dated 26.12.1990 have not chosen to withdraw that order. Since the impugned order at Annexure-I was passed on 18.2.1992, the plea of the learned counsel for the respondents that the application is time barred, is also not acceptable.

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3. In the above circumstances, we allow the application and direct that the applicant shall be paid the arrears of pay and allowances as an UDC in implementation of the order dated 26.12.1990 (A-VIII) from 4.12.1986 to 20.6.1989. No costs.

J. P. Sharma
(J. P. Sharma)

Member (J)

S. P. Mukerji
(S. P. Mukerji)
Vice Chairman (A)

18-4-93