

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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...
OA.No.729/92

Dated New Delhi, this 14th day of February, 1997.

HON'BLE MR JUSTICE B. C. SAKSENA, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER (A)

S. K. Bhatnagar
(Vice President,
Customs, Excise & Gold
(Control) Appellate
Tribunal)
D I/218 Vinay Marg
Chanakyapuri
NEW DELHI.

... Applicant

None for applicant.

versus

Union of India, through
Secretary
Ministry of Finance
Department of revenue
Central Secretariat
NEW DELHI.

... Respondent

None for respondents.

O R D E R (Oral)

Mr Justice B. C. Saksena, VC(J)

This OA has remained on board and had been appearing in the cause list. No one appears for the parties even on second call. Since this is a 1992 matter, we proceed to decide this OA.

The applicant who is a Member of Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT) has sought fixation of pay to the grade of Rs.7300-8000 till 19.2.91 on parity with S/Shri K. L. Rekhi and K. P. Anand who were also Members of the same Tribunal. Earlier, the applicant had filed OA.No.2568/89. The said OA along with OA.No.1946/88 was decided by order dated 9.8.90. In the operative portion of the said order, the Division Bench took a

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view that normally the courts do not go into the question of parity between two sets of posts and the pay scale that should be admissible to them and that since the representation of the applicants had not been replied to by the Government, they may examine the whole question regarding the pay scale of the Members of the CEGAT taking into consideration the recommendations of the Jha Committee and Rule 14 and 18 of the Customs, Excise and Gold (Control) Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1987. Pursuant to the order passed in the said OAs, the respondents have considered the representation preferred by the applicants, by Memorandum dated 26.6.91. In the Memorandum it has been indicated that it has not been possible to accept the request of the applicant for higher scale of pay. In the said Memorandum it has further been indicated that S/Shri K. L. Rekhi and K. P. Anand were given higher scale of pay purely personal to them and as their immediate juniors in the parent cadre were promoted/considered for promotion to the said scale of pay on that analogy, the other Members of the CEGAT are not entitled to the said scale of pay given to the aforesaid two officers. It has been further indicated that the aforesaid two officers were much senior to the two applicant officers in the IC&CE Service and the former two officers had expressed their intention to revert back to their parent cadre. Since in the public interest it was not possible to repatriate the said two officers, the Government directed them to avail of higher scale of pay purely personal to them.

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In the counter-affidavit the reasons set out in the Memorandum dated 26.6.91 has again been elaborated. In the counter it has been clearly stated that no Member of the parent cadre of the applicant has been given higher scale of pay than the applicant. The position in regard to two officers, viz. Shri K. L. Rekhi and Shri K. P. Anand has also been clarified in the impugned Memorandum. The two Members have already been repatriated and, therefore, the applicant is confined to his relief relating to the period 19.2.91. In the counter it has been indicated that the scale of pay and other service conditions of the Members of CEGAT are governed by the CEGAT Members (Recruitment and Conditions of Service) Rules, 1987 and the 4th Pay Commission had recommended a replacement scale of Rs.7300-7600 to the Members of the CEGAT in place of earlier scale of fixed pay of Rs.8000. In view of the averments in the counter-affidavit, we are satisfied that no case of grant of any relief is made out. In the counter-affidavit it has also been indicated that the Bangalore Bench of the CAT in OA. No. 60/90 (K. Gopal Hegde Vs Secretary, Ministry of Finance) vide its judgement and order dated 13.8.91 upheld the decision of the Government of authorisation of pay scale of Rs.7300-7600 for Members of CEGAT.

In the rejoinder-affidavit the applicant has not indicated any facts to meet the specific averment of facts made in the counter-affidavit.

In view of the above, there is no merit in the OA and it is accordingly dismissed.



(K. Muthukumar)
Member (A)



(B. C. Saksena)
Vice Chairman (J)