

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A.No.1969/93

Tuesday this the 20th day of July, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

Bhubaneshwar Lal Dass
S/o late Shri K.K.L.Dass
aged 46 years at present working
as Section Officer in the Ministry
of Coal, R/o H.No.415,
Kalibari Marg, Gole Market,
New Delhi-110 001.

..Applicant

(By Advocate Mr.A.K. Behra)

Vs.

1. Union of India through the Secretary
Ministry of Commerce, Department of Supply,
Nirman Bhavan, New Delhi.
2. Secretary, Ministry of Coal,
Shastri Bhawan, New Delhi.
3. Secretary,
Department of Personnel & Training,
North Block,
New Delhi.

...Respondents

(By Advocate Mr. N.S. Mehta, Standing Counsel)

The application having been heard on 20.7.1999, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the order
dated 20.7.93 whereby the respondents have denied to
refix his pay with effect from 1.7.82 ie., the deemed
date of promotion of his immediate junior. He is also
aggrieved by the respondents' denial of allowing the
consequential monetary benefits pursuant to refixation
of the pay.

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2. The applicant's case is based on ground elaborated in paragraphs 5(a) to 5(e) of the Original Application. The main thrust of applicant's challenge is that he was not given the benefit of promotion from the date his immediate junior was considered for promotion as Section Officer in the Department of Supply. In support of his claim, the applicant seeks to draw support from the order of this Tribunal in O.A.2539/91 decided on 24.4.92. In that case this Tribunal had directed the respondents to refix the pay of the applicant therein from the date of his junior was promoted. The applicant would also argue that as per rules/regulations the respondents should have informed him about his due promotion in the parent cadre (Department of Supply) and by not giving option whether to continue on deputation or to revert back to his parent department for the purpose of availing the promotion, the respondents have denied his legitimate claim. The issues raised in this O.A. stands discussed in detail in the Original Application aforementioned.

3. Shri N.S.Mehta, learned counsel for the respondents conceded that the ratios arrived at in O.A.2539/91 appear to be applicable in the facts and circumstances of this case.

4. It would be worthwhile to mention that the decision in the case of Bhattacharya (supra-OA 2539/91) was based on the decision in an earlier O.A. decided in the case of Satish Kumar Vs. Secretary, Ministry of Human Resources (OA.3/85) wherein the

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issue of juniors promoted superceding the superior claims of the seniors were examined and reliefs provided to the senior accordingly.

5. In view of the details aforesaid, we allow the Original Application with the following orders:

(i) The respondents shall refix the pay of the applicant with effect from 1.7.82 by granting him the benefit of deemed promotion from 4.12.79 ie, the date from which K.B.Jha his immediate junior was promoted as Section Officer in the Department of Supply.

(ii) The respondents are also directed to pay arrears of pay and allowances on the basis of the orders aforesaid within a period of three months from the date of receipt of a copy of this order.

(iii) The applicant shall also be eligible for other consequential benefits. The prayer for interest, however, is disallowed.

6.

No order as to costs.

Dated the 23rd day of July, 99.


S.P. BISWAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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