

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 915/93

199

T.A. No.

DATE OF DECISION : 12.2.1999

P.H. Pardasani

....Petitioner

Shri Arun Bhardwaj

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors.

....Respondents.

Shri A.K. Bhardwaj

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri N. Sahu, Member (A).

1. To be referred to the Reporter or not? YES
2. Whether it needs to be circulated to other Benches of the Tribunal? NO.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 915/93

New Delhi this the 12 th day of February, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri N. Sahu, Member (A).

Shri P.H. Pardasani,
Assistant Director (Retired),
R/o 14/198 (Ist Floor) Malviya Nagar,
New Delhi-110017. ... Applicant.

By Advocate Shri Arun Bhardwaj.

Versus

1. Union of India,
through the Secretary,
Ministry of Home Affairs,
North Block, New Delhi-2.

2. The Secretary,
Ministry of Finance,
North Block,
New Delhi-2.

3. Secretary,
Cabinet Secretariat,
& Directorate General (Security),
8-B, South Block, New Delhi-2. ... Respondents.

By Advocate Shri A.K. Bhardwaj.

O R D E R

Hon'ble Smt. Lakshmi Swamianthan, Member (J).

The applicant is aggrieved by the order dated 13.5.1992 issued by the respondents rejecting his representation for extension of the benefit of two additional increments as Section Officer in accordance with the provisions contained in DOP&T O.M. dated 1.7.1977 giving such benefits to some Section Officers in the Central Secretariat Service (CSS).

2. We have carefully considered the pleadings and the submissions made by Shri Arun Bhardwaj, learned counsel for the applicant and Shri A.K. Bhardwaj, learned counsel for the respondents.

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3. The respondents have taken a preliminary objection that the O.A. is highly belated and is barred by limitation. Learned counsel for the applicant has relied on the recent judgement of the Supreme Court in **Jaidev Gupta Vs. State of H.P** (AIR 1998 SC 2819). We are unable to agree with the contention of the respondents because in the impugned memorandum dated 13.5.1992 the respondents have clearly stated that on reconsideration of the representation made by the applicant dated 6.9.1991, along with DOP&T O.M. dated 1.7.1977, in consultation with the concerned Ministries/Departments they have rejected the same. This O.A. has been filed on 27.4.1993 and was admitted on 29.4.1993. In the circumstances, the preliminary objection taken by the respondents on the ground of limitation is untenable in terms of the provisions of Section 21 of the Administrative Tribunals Act, 1985 and it is accordingly rejected.

4. The brief facts of the case are that the applicant who had appeared in the All India Examination for selection to the post of Assistant Class II, Non-Gazetted for Central Secretariat Services, Intelligence Bureau (IB), Railway Board etc. was appointed as Assistant in the I.B., Ministry of Home Affairs on 30.1.1959. He was posted to the office of Respondent 3 + Directorate General of Securities, DG (S) on 1.6.1968. According to him, DG (S) as well as IB are not included in CSS. The respondents have submitted that he opted for permanent absorption with DG (S) w.e.f. 4.11.1975. The applicant submits that initially he was not given any deputation allowance from 1970 to 1975 till he was absorbed in DG (S). He had received deputation allowance like other Assistants who had either come from CSS or from IB and this was protected by way of

20

personal pay which was to be absorbed in future increments. The applicant was promoted to the post of Section Officer in 1976. Shri Arun Bhardwaj, learned counsel for the applicant, has submitted that the applicant had been making a number of representations which had been looked into by the respondents till it was finally rejected by the impugned order for granting two additional increments. He has submitted that there is no question of double benefit as submitted by the respondents. He has relied on the DOP&T O.M. dated 1.7.1977 and also on Rule 11 of the DG (S) Secretariat Services Rules. This rule provides that in regard to the matters not specifically covered by the Rules or Government orders, the members of the service shall be governed by general Rules, Regulations and Orders applicable to persons belonging to the corresponding Central Civil Service. Learned counsel for the applicant has, therefore, submitted that all monetary benefits enjoyed by the Section Officers in CSS are also made applicable to GS (S) by these Rules and he is, therefore, entitled to two additional increments. He has also submitted that under the respondents' order dated 5.3.1991 it has been stated that the pay in the revised scales will be fixed in accordance with the provisions of Central Civil Service (Revised Pay) Rules, 1986. He claims that by virtue of this order, ^{also} the applicant is, ~~therefore~~ entitled to the same benefits that were given to the Assistants in CSS as he was an Assistant working in DG (S).

5. The above averments have been denied by the respondents who have submitted that the applicant has no right to the two additional increments as he had already been permanently absorbed in the borrowing department i.e. DG (S) and has completely severed his relations with the parent department. They have, therefore, submitted that the applicant

cannot claim the benefits that are admissible to employees in the parent department after he had been absorbed in another department. The respondents have submitted that on the basis of the recommendations of the 2nd Pay Commission, the Class-I status enjoyed by the Section Officers of CSS/IB was withdrawn which resulted in loss of pay and status in the case of Assistants who joined these services prior to 1.7.1977. In order to compensate such officers, DOP&T issued O.M. dated 1.7.1977 and allowed two additional increments, ^{to those 13} who were in position on 1.7.1959 who were already promoted as Section Officers or might be promoted thereafter from amongst Assistants who had been regularly appointed as on 1.7.1959. The two additional increments were admissible: (1) when the officers were due to reach at the stage of Rs.810/- in the revised scale of Section Officer or on completion of 3 years service as Section Officer whichever is later: and (2) the second additional increment was admissible to the officers when they were due to reach at the stage of Rs.960/- or after putting six years of service, whichever was later. These claims were subject to other conditions mentioned in the O.M. They have submitted that initially DG (S) was considered an offshoot of I.B. and no deputation allowance was paid to the Assistants. Later on, these Assistants, including the applicant were given deputation allowance in DG (S) till their permanent absorption in the Directorate w.e.f. 4.11.1975 on promulgation of the DG(S) Secretariat Service Rules. They have also submitted that the absorption had been done after obtaining the willingness of the concerned persons. In the circumstances, the respondents have submitted that the applicant has no claim for the two increments.

13

22

6. - The relevant portion of the DOP&T O.M. dated 1.7.1977 regarding grant of additional increments to Section Officers of Central Secretariat Service reads as follows:

".....The President is pleased to decide that the scheme of additional increments for the Section Officers who were in position on 1.7.1959 be extended to all Section Officers who have already been promoted or might be promoted from among Assistant(s) (regularly appointed) who were in position on 1.7.1959".

The orders were to take effect from the date of issue. From the facts mentioned above, before the aforesaid DOP&T O.M. was issued w.e.f. 1.7.1977, DG(S) according to the applicant himself, had become a permanent organisation w.e.f. 4.1.1975 when their service Rules were also issued. The applicant had been permanently absorbed with DG(S) w.e.f. 4.11.1975, after he had given his consent and before the ^{June 19} O.M. dated 1.7.1977 relied upon by ~~the applicant~~ was issued. In the circumstances, the contention of the applicant that he had been discriminated as compared to Assistants/Section Officers in CSS is not tenable as he had already severed his relations with the parent department i.e. the CSS. The ^{on the 15} ₁ residuary provisions under Rule 11 of the DG(S) Secretariat Service Rules cannot also assist the applicant because this cannot be considered as a residual matter falling under these provisions. Similarly, the order dated 5.3.1991 issued by the respondents in which it has been stated that the pay in the revised scales will be fixed in accordance with the provisions of CSS (Revised Pay) Rules, 1986, as amended from time to time does not also mean that the DOP&T O.M. dated 1.7.1977 granting two additional increments to Section Officers who were in position on 1.7.1959 is applicable to the applicant. It only means that the revised pay scales of Assistants/PSS and

-6-

Stenographers Grade-II in RAW and DG (S) w.e.f. 1.1.1986 have been fixed in accordance with the Revised Pay Rules of 1986. In our view, therefore, this also cannot assist the applicant.

7. In the result, for the reasons given above, this application fails and the same is accordingly dismissed. No order as to costs.

N. Sahu
(N. Sahu)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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