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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6th DAY OF JANUARY 1998

Original Application No. 782 of 1997

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Mahendra Pal Singh(Rajput) son of
Chandra Pal Singh, r/o Local Office
Employees State Insurance Corporation
Station Road(Opp. Kunwar Cinema)
Moordabad

... . . Applicant

(By Advocate Shri P. Verma)

Versus

1. Union of India through
Up Nideshak(Admn), Regional Office
Employees State Insurance Corporation
Survodaya Nagar, Kanpur.
2. Director general of Employees State
Insurance Corporation Kotla
Road, New Delhi.

... . . Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

We have heard the learned counsel for the applicant when the OA came up for orders as regards admission. The applicant challenges an order dated 10.10.96 contained in Annexure 17 by the ~~H.P.~~Up Nideshak(Administration), Employees State Insurance Corporation Regional office Kanpur. By the said letter the decision of the appeal preferred by the applicant against the order passed by the Regional Director Kanpur had been communicated. The applicant had claimed stepping up of his pay on the ground that one Hira Lal misra junior to him was getting higher pay. The appeal also failed and the applicant has filed this OA seeking quashing of the order dated 10.10.96 and for a direction to be issued to the respondents for stepping up of the pay of the applicant to the level of his junior(Hira Lal misra) .

2. From the facts indicated in the OA it appears that the applicant was appointed as LDC ~~on~~ 26.11.77 in the E.S.I.

The applicant was reverted from UDC to LDC by an order passed on 26.12.1983. The applicant was subsequently granted ad hoc promotion as UDC by order dated 2.6.88 and the applicant joined as UDC on 14.6.88. Evidently Hira Lal Misra whom the applicant claims to be his junior continued as UDC and had not been reverted. This fact is also substantiated by the averments made in para 4 of the appeal preferred by the applicant, copy of which is Annexure 13. The applicant in the said paragraph has stated as follows;

"That I was reverted to the post of LDC w.e.f 25.1.84 in the pay scale of Rs.260-400 but LDC named Hira Lal Mishra who was junior to me in the cadre of LDC was not reverted (sic) to the post of LDC and remained continue as UDC till date while I was reverted though I was senior to him "

3. The learned counsel for the applicant drew out attention to Annexure 16 which is an extract from Swamy News of the month of January 1994. Sl. No. 8 of Swamy News referred to a decision rendered by the Ernakulam bench on 29.10.93 in K. Krishna Pillai and Ors Vs. union of India and Ors wherein it was held that a senior's pay should be stepped up to that of Junior under F.R.-C irrespective of the reason ~~for the~~ junior drawing higher pay. Thus the only ground for the claim for stepping up of pay is that Hira Lal Misra junior to the applicant is getting higher pay.

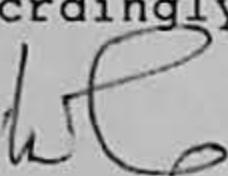
4. In view of the divergents of views on the question the matter was referred to a Larger Bench and the Larger Bench in B.L. Somayajulu Vs. Telecom Commission and Ors reported in 1997(1) ATJ pg 1, after referring to the provisions of F.R. 22-C now equivalent that of F.R 22(1)(a)(i) of the Fundamental Rules held that there is no general rule that senior has to get higher pay if the junior has been given the higher pay. It was held that stepping up of pay can be only on the basis

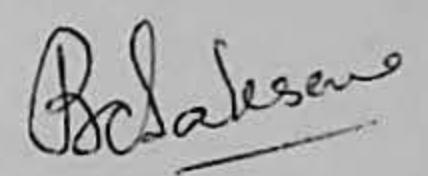
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of legal right. The Full Bench further relying upon a Supreme court decision reported in (1992) 19 ATC 219 has held that the CAT has no equity jurisdiction. In view of the said Full Bench decision, Reliance on Ernakulam Bench judgment in K.K. Pillai and Ors Vs Union of India and Ors(Supra) is irrelevant. The applicant has not challenged the order for his reversion. On his promotion by order dated 11.11.88 the applicant's basic pay was Rs.1200/- in the pay scale of Rs.1200-30-1560-EB-40-2040.

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


MEMBER(A)


VICE CHAIRMAN

Dated: January 6th, 1998

Uv/