

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 33 of 1998

Allahabad this the 27th day of May, 2004

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Birbal Singh, aged about 55 years, Son of Sri Nathu Singh, resident of Type 2/1 Hathi Barkala Estate, Survey of India, Dehra Dun.

By Advocate Shri K.C. Sinha

Applicant

Versus

1. Union of India through Secretary, Ministry of Science and Technology, New Mehroli Road, New Delhi-110016.
2. Controller of Accounts, Principal Accounts Office, Ministry of Science and Technology, Mehroli Road, New Delhi-110016.
3. Senior Accounts Officer, Central Pay Accounts Office, Survey of India, 6, Subhash Marg, Dehra Dun.

By Advocate Shri Satish Chaturvedi

Respondents

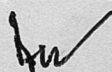
O R D E R

By way of filing this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to issue an order crossing the E.B. of the petitioner with effect from 1.8.1985, prior to 1.1.1986 and further prayed for direction to the respondents to accord all the benefits and privileges including monetary benefits of crossing E.B. with effect from 01.08.85.

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The applicant has also prayed for direction to the respondents to grant him one increment as on 01.08.86.

2. The facts of the case, in short, are that the applicant was appointed on 01.07.69 as Auditor. By order dated 20.05.85 the applicant was promoted as Senior Accountant in the scale of Rs.425-15-560-EB-20-700 with effect from 01.08.1984. Consequent upon the promotion of the applicant, by order dated 19.08.1985 his pay was fixed at the stage of Rs.485/- per month plus Rs.3/- as personal pay on 01.08.1984. The applicant filed a representation on 23.08.85 against this order, which was disposed of by the order dated 20.11.1985. On 23.01.1986 an office order was issued through which earlier letter dated 19.08.1985 was superseded and the pay of the applicant was fixed at Rs.500/- with effect from 01.08.1984. On 10.03.1986 a memo was issued by the respondent no.3 through which the applicant was communicated about the order of respondent no.2 that the petitioner was not found fit to cross E.B. with effect from 01.08.85 and his case shall be considered after expiry of 6 months. The applicant has moved representations against this memo with a request that his case of Efficiency Bar may be released from 01.08.1985. The applicant was given a warning vide letter dated 24.03.88. It is further stated that vide O.M. dated 27.05.1988 the Ministry of Finance has given an opportunity to those whose E.B. were withheld to opt for revise pay scale. The applicant was informed vide letter dated 21.10.1988 that since the case of Efficiency Bar of the applicant is not cleared with effect from 01.08.85, the question of exercising his option in the terms of Ministry of Finance letter dated 27.05.1988 did not arise. The applicant kept on filing representations and grievance of the applicant is that by the impugned letter dated 12.11.1995(annexureA-30, copy forwarded to the applicant on 03.12.1996), the applicant was informed that review D.P.C. with the approval of J.S. & F.A.



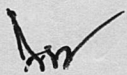
had allowed the applicant to cross E.B. w.e.f. 01.08.1986. Aggrieved by the same, applicant filed his representation dated 06.01.1997 and when nothing was heard by the respondents, the applicant filed this O.A., which has been contested by the respondents by filing the counter-affidavit.

3. Heard Counsel for the parties at length and considered their submissions as well as the pleadings.

4. The respondents have raised preliminary objection, submitting that O.A. is not maintainable being barred by period of limitation. I am not inclined to accept this because it was finally informed by the respondents to the applicant by letter dated 12.11.1995 (delivered on 03.12.1996) that the applicant was allowed to cross E.B. w.e.f. 01.08.1986. On receipt of letter dated 12.11.1995 in December 1996, the applicant filed a representation before respondent no.1 on 06.01.1997 (annexure A-31) which still remains undecided. Keeping in view 06th January, 1997, which is date of representation, the O.A. is not barred by period of limitation.

5. During the course of arguments, learned counsel for the respondents submitted that the applicant could not be allowed to cross E.B. because he was communicated 'warning'. Learned counsel for the applicant urged that 'warning' should not stand in the way of crossing of E.B. In fact even in case of promotion, warning is not at all a stumbling block. I find substance in the argument of learned counsel for the applicant.

6. From perusal of the pleadings, I find that the applicant filed a representation before respondent no.1 on 06.01.1997. The respondents in para-46 of the counter-affidavit have stated that applicant filed the representation dated 06.01.1997 directly to respondent



no.1 without routing the same through proper channel, which is highly improper and amounts to misconduct. The objection of the respondents is well founded. In fact applicant should have filed his representation through proper channel if he was aggrieved with the order dated 21.11.1995 (delivered on 03.12.1996). However, in my considered opinion, ends of justice shall better be served if the applicant files a fresh representation before the competent authority in the respondents establishment, and the competent authority shall decide the same within a specified time.

7. In view of discussion made above, I allow four weeks time to the applicant to file a representation before the competent authority along with a copy of this order, and competent authority is directed to decide the same within four months from the date of receipt of such representation, by a reasoned and speaking order. With these directions, O.A. stands disposed of. No order as to costs.


Member (J)

/M.M./