

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 256 of 2001

Allahabad this the 12th day of October, 2004

Hon'ble Mrs. Meera Chhibber, Member (J)
Hon'ble Mrs. Roli Srivastava, Member (A)

Triveni Sahai Asthana, Son of Late Mahadev Prasad,
Resident of 2/62 Ramanand Nagar, Allahapur, Allahabad.

By Advocate Shri S.K. Pandey

Applicant

Versus

1. Comptroller and Auditor General of India, 10 Bahadur Shah Jafar Marg, New Delhi.
2. Accountant General (A&E), U.P. I, Allahabad.
3. Deputy Accountant General/Administration Office of A.G. U.P.I, Allahabad.
4. Accounts and Audit Officer A.G.U.P. I, Allahabad.

Respondents

By _____

O R D E R (Oral)

By Hon'ble Mrs. Meera Chhibber, Member (J)

Shri S.K. Pandey, Advocate had appeared for the applicant in the morning and had argued his case. He however, requested the Court to look into the supplementary affidavit, which he has already been filed on 11.10.04. Even then we clear about the case in our mind but in order to give justice to the applicant, applicant's counsel request was accepted and as per his request, case was directed to be taken up at 3.30 p.m. by directing registry to place the supplementary affidavit on record. Suppl. affidavit has been placed on record by the registry but

at 3.30 p.m. when the case was called out Shri Anil Kumar Misra, Advocate appeared and prayed that since Shri S.K. Pandey's name was not shown in the cause list, therefore, case may be adjourned. Since Shri S.K. Pandey had already argued the matter in the morning, so the request made now on his behalf, cannot be acceded to.

2. By this O.A. applicant has sought the following reliefs:-

(i) That the impugned orders dated 2.4.1996, 1.11.1999, 16.2.2000 and 24/28.2.2000 Annexure-1A, 1B, 1C and 1D respectively to this application as passed by the respondent authorities from time to time for granting the actual monitory benefit of fixation to the applicant in the scale of functional grade of Selection Grade Auditor only w.e.f. 13.9.1991 i.e. from the date of the Judgment only and further with holding the same for the period since 16.5.1970 to 12.9.1991 may be kindly be quashed.

(ii) That the respondents may kindly be directed to pay the applicant his arrears of salary with actual monitory benefit of the scale of functional grade of selection grade auditor w.e.f. 16.5.1970 and arrears since 16.5.1970 till 12.9.1991 as per the judgment of Hon'ble Tribunal affirmed by the Hon'ble Supreme Court together with 12% interest per annum on the arrears so accrued and other consequential benefit of the said fixation.

(iii) That the respondent may kindly be directed to pay the applicant his regularly monthly pension regularly every month after refixation of the same with actual monitory benefit in the functional grade of Selection Grade Auditor w.e.f. 16.5.1970.

(iv) Any other relief which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case be granted in favour of the applicant."

3. It is submitted by the applicant that the applicant had initially filed O.A.No.702/88 which was decided by this Tribunal on 13.09.1991 whereby respondents were directed to re-fix the seniority of the applicant and grant him the same pay scale which his juniors were getting. Therefore, respondents could not have issued the order dated 01.11.1999 by promoting him notionally to the functional grade of Selection Grade Auditor in the scale of Rs.210-10-290-15-320-EB-15-380 w.e.f. 16.05.1970.

4. The grievance of the applicant in this case is that he has been given the actual benefit of pay scale w.e.f. the date of order of this Tribunal i.e. 13.09.1991 whereas he ought to have been given the actual arrears of pay w.e.f. same date from which his junior was getting.

5. After hearing counsel for the applicant, we perused the Judgment dated 13.09.1991 given in O.A.No. 702 of 1988 wherein applicant had prayed that respondent no. 2 be directed to re-determine/re-fix the seniority of the applicant with reference to executive instructions contained in O.M. dated 22.06.1949 in the gradation list w.e.f. 01.03.1963 and place him in the scale of Rs.425-690/- with retrospective effect from 16.05.1970, the date from which his immediate junior Shri Saheb Deen was moved to the selection grade with consequential benefits in the matter of fixation of pay and drawal of increments in the Selection Grade(Rs.425-640) as per pay scales drawing since May, 1970 onwards. After discussing everything this Tribunal has held as under:-

"The applicant will be entitle to the relief that the previous seniority is to be counted from the date when he entered into the service and he will be granted the notional seniority as well as the..pg.4/-

pay scale as has been mentioned in O.A. of 1978 instructed above. But in case the seniority matter has become a close chapter after inviting objections to it. The applicant may be given notional benefit of pay scale. So far as his seniority is concerned the list will not be disturbed by placing him above those whose placement has already been become final by decision or action on the party of the applicant.

7. With these observations the applicant stands disposed of finally."

6. Perusal of the above para makes it clear that applicant was to be given only notional benefit of pay scale as per Tribunal's direction. Thereafter, applicant cannot have any grievance if his pay has been fixed notionally by the orders which are impugned before us. Since this matter is concluded by the Judgment of this Tribunal, applicant cannot even be allowed to reigitate the same as he is bound by the order passed by this Tribunal. Counsel for the applicant has strenuously argued that even the Office of Comptroller and Auditor General of India had asked the A.G.(A&E), Allahabad vide his letter dated 10.05.1994 to implement the Tribunal's order but yet respondents have not implemented the order in its letter and spirit. We failed to understand how applicant states that the Judgment of this Tribunal has not been complied in its letter and spirit when the applicant has already been given the benefit of notional fixation of pay, as was directed by this Tribunal.

7. In view of the discussion made above, we find no merit in the O.A., which is dismissed accordingly. No order as to cost.

Member (A)

Member (J)

/M.M./