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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ^{MARCH}
THIS THE 16th DAY OF ~~FEBRUARY~~, 2007

Original Application No.948 OF 2005

CORAM:

HON.MR.JUSTICE KHEM KARAN,V.C

Avinash Chandra Srivastava, S/o
Shri L.N.Srivastava. R/o 860. Muthiganj
Allahabad, posted as Carpet Training Officer
at regional Carpet Store, Lekhrajpur, Allahabad.
(By Adv: Shri N.L. Srivastava)

.. Applicant

Versus

1. Union of India Ministry of Textile
through its Secretary, New Delhi.
2. Development Commissioner (Handicrafts)
West Block No.7 R.K. Puram, New Delhi.
3. Regional Director (Centre Region), Office
of the Development Commissioner (Handicrafts)
Kendriya Bhawan 7th Floor, Aliganj, Lucknow.
4. Assistant Director (A&C) Carpet Weaving Training
Cum-Service Centre, Allahabad, Office of the
Development (Handicrafts), 1A/3A Ram Priya
Road, Allahabad.
5. Assistant Director (A&C) Carpet Weaving Training
Cum Service Centre (M.P.), Office of the Development
Commissioner (Handicrafts)

.. Respondents

(ByAdv: Shri R.K. Tiwari)

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ORDER

JUSTICE KHEM KARAN, V.C.

The applicant has prayed for (a) quashing order dated 11/12.4.2005 (A-10) and order dated 28.7.05 (A-12) passed by respondent No.4,(b) for directing the respondents to fix his pay at Rs.10,325 as on 17.5.2003 and grant regular increments and (c) for directing them to pay Rs.39684 (32418+7266) together with interest @ 10% per annum w.e.f. 1.8.05.

[Signature]

2. His case in brief is that while working as Carpet Training Officer, in April 1991, an enquiry was initiated against him by respondent No.2, and as a result of this enquiry, his pay was reduced to ^{Rs.}2250 from Rs.2300 in the pay scale of 1600-50-2300-EB-60-2600, for a period of one year, without affecting future increments, vide order dated 15.5.96 (A-2). He alleges that his basic pay in the said scale as on 1.5.1990 was Rs.2300/- and due to pending proceedings increments that fell due on 1.5.1991, 1.5.1992, 1.5.1993, 1.5.1994, 1.5.1995 and 1.5.1996, were not granted or added to basic pay of Rs.2300/-, before penalty order dated 15.5.1996. It is said in para 4.4. of OA that Asstt. Director (A&C) Gwalior, Carpet Weaving Training Cum Service Centre, implemented the penalty order vide his order dated 1.8.96 by reducing his pay to Rs.2250/- from Rs.2300/- w.e.f. 1.5.1990 to 30.4.91 and restored the pay w.e.f. 1.5.1991 by granting increment. Annexure A-3 is the copy of this order dated 1.8.96. In July 1996 he was transferred to Carpet Weaving Training Centre, Kasari, Allahabad, and here he was paid arrears to the tune of Rs.45629/- after deducting Rs.790/- copy of the bill of arrears is Annexure-4. Petitioner says that he was given 1st A.C.P. promotional pay scale w.e.f. 9.8.99, in the pay scale of Rs.6500-200-10,500 vide order dated 27.12.2001 and his pay was fixed at Rs.9300/- as on 9.8.99 (A-5). When the second A.C.P. was not granted on completion of 24 years, ^{he} He filed one O.A. No.1538 of 2003, which this Tribunal disposed of vide order dated 22.12.2003 and in compliance of that order the respondent No.2 granted the same w.e.f. 17.5.2003 in the scale of Rs.10,000-325-15,200, vide order dated 30.6.2004 (A-7). Pay scales were revised by Vth Central Pay Commission. His grievance is that while fixing his pay in the revised scale of Rs.1640-2900 (Corresponding to old pay scale of Rs.530-900) his basic pay was illegally reduced to Rs.2675/- from Rs.2750/- from 15.5.1996, apparently on the basis of penalty order dated 15.5.96. He contends that when vide order dated 1.8.96 (A-3), his pay had already been reduced to Rs.2250/- from Rs.2300/- w.e.f. 1.5.1990, ^{and} there was no justification for reducing it further from

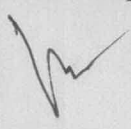
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Rs.2750/- to Rs.2675/- and this act of the respondent affected his salary for the subsequent period.

He says his pay as on 17.5.2003 should have been fixed at Rs.10,325/- instead of Rs.10,000/- in the pay scale of Rs.10,000-325-15,200. According to him due to this mistake, the respondent no.4, recovered Rs.7266/- from the salary of applicant, paid in July 2005. He calculates that if his salary is correctly fixed w.e.f 1.5.96, after removing the said mistake, he would be entitled arrear to the tune of Rs.39684 (32418+7266) upto July 2005. He has annexed the chart with a view to take his point clear (A-13).

3. The respondents have contested the claim, by saying that though the officer at Gwalior reproduced the penalty order in service book of the applicant, but never implemented the same by actually reducing his pay, so the same has been implemented in the manner shown in order dated 11/12.4.2005 (A-1) and excess paid was directed to be recovered vide letter dated 28.7.2005 (A-12). They have also annexed copy of order dated 28.2.2003 (CA-1), showing how the pay of the applicant right from 15.5.1979 to 1.5.1985, in the revised pay scale of Rs.550-900 (old 550-800) and from 1.1.1986 to 1.5.1997, in the revised pay scale of Rs.1640-60-2600 EB-2900, from 1.5.97 to 1.5.99 in the revised pay scale of Rs.5300-9000 (as recommended by Vth Pay Commission) and thereafter from 9.8.99 to 1.8.2002, in the pay scale of Rs.6500-10,500 (as a result of ACP), was fixed on the basis of his option. They say that the claim of the applicant is misconcerned.

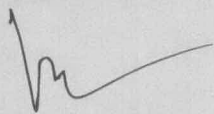
4. In his rejoinder the applicant has reiterated that once penalty order dated 15.5.96 had already been implemented vide order dated 18.96 (A-3), by reducing his pay Rs.2300 to 2250 w.e.f 1.5.90 to 30.4.91, there was no justification to reduce it again from Rs.2750 to Rs.2675/- w.e.f. 15.5.96, as shown in impugned order dated 11/12.4.2005 (A-10) and the effect of this mistake reduced his subsequent pay at all levels upto July 2005.



5. I have heard Shri N.L.Srivastava, the learned counsel for the applicant and Shri R.K.Tiwari, the learned counsel for the respondents.

6. The crux of the matter is as to whether order dated 15.5.96 (A-2), imposing the penalty of reduction by one lower stage in the time scale for ^h a period of one year ~~thus reducing~~ ⁱⁿ the pay scale of Rs.1600-50-2300-EB-60-2600, was actually implemented vide order dated 1.8.1996 (A-3) by reducing his pay to Rs.2250/- w.e.f. 1.5.90. This order dated 15.5.96 provided that if an increment fell during this period of one year, he would earn the same and an expiry of period of one year, it will not have the effect of postponing future increment of pay.

7. The Central point for consideration is as to whether punishment order dated 15.5.96 (A-2) was implemented by the Asstt. Director (A & C) Gwalior Carpet Weaving Training Cum Service Centre vide order dated 1.8.96 (A-3) by reducing the basic pay from Rs.2300/- to Rs.2250/- w.e.f. 1.5.90 to 30.4.91 if so can it be re-implemented in the manner it has been done vide order dated 11/12.4.2005 (A-10). Penalty order dated 15.5.96 (A-2) clearly provided that reduction from Rs.2300/- to Rs.2250/- in the time scale of Rs.1600-50-2300-EB-60-2600) was for a period of one year, without debarring the applicant from earning increment during this period and without postponing his future increment. It is a fact that the applicant was at the stage of Rs.2300/- as on 1.5.90. Since annual increments were not in fact given on 1.5.91, 1.5.92, 1.5.93, 1.5.94, 1.5.95 and 1.5.96 when the punishment of reduction to lower stage by one stage was imposed, ^h The correct way was to first determine the basic pay as on 15.5.96, by adding increments that fell due in between 1.5.90 to 1.5.96 and then to pass the penalty order. But here we are not on the point as to what type of order should have been passed. The correctness of penalty order is not the subject matter of these proceedings. It is the implementation of that order, that has to be seen. The applicant appears to be correct, in saying that the penalty order was in fact implemented vide order dated 1.8.96, as shown in Annexure-3. There was



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therefore no justification on the part of the respondents to implement it again, vide order 11/12.4.2005 (A-10), by reducing the pay from Rs.2750/- to Rs. 2675/- w.e.f.15.5.96. This has adversely affected his subsequent pay in the revised pay scales in different grades. So, the impugned order dated 11/12.4.2005 (A-10) has to be quashed and the respondents are to be directed to refix his pay in revised pay scales as shown therein, without reducing his pay from Rs.2750/- to Rs.2675/- w.e.f 15.5.96 and to pay arrears, if any accordingly. The recovery order dated 28.7.2005 (A-12) based on order dated 11/12.4.2005 (A-10) is also liable to be quashed. In so far as the claim for interest on arrear, is concerned, I ^{think} ~~feel~~ the same cannot be accepted.

7. In the result, the two orders dated 11/12.4.2005 (A-10) and 28.7.2005 (A-12) are quashed, with a direction to the respondents No.2, 3 and 4 to refix applicants pay in revised pay scales/different scales as indicated in Annexure-10, without reducing his pay from Rs.2750 to Rs.2675/- w.e.f 15.5.96, and pay arrear of pay, if any, within a period of four months from the date certified copy of this order is produced before them. The relief for interest is refused. No order as to costs.


VICE CHAIRMAN

Dated: ~~Feb~~ 16.3, 2007

Uv/