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CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

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Registration O.A. No. 1008 of 1988

R.K. Saini Applicant

Vs.

Union of India & ors ... Respondents

Hon' Mr. K. Obayya, A.M.

In this application under section 19 of the Administrative Tribunal's Act No.XIII of 1985, the applicant R.K. Saini seeks issuance of direction to the respondents to treat his pay in the scale of Rs.425 - 700 during the period 24.3.79 to 12.9.79 and fix his pay at Rs.1900/- in the scale of Rs.1600 - 2660 w.e.f. 1.3.1986 and for early settlement of the amounts due to him.

2. Briefly stated facts in this case are that the applicant was appointed as Stenographer on 1.8.1952 in Martine Railway Company. The Company was closed down on 28.2.1978. Thereafter an offer of appointment dated 6-3-1979 was made to him by Divisional Personnel Officer, Mughalsarai in the Eastern Railway for the post of temporary Stenographer on Rs.330/- in the scale of Rs.330 - 560. The applicant conveyed his acceptance to this offer on the same day. He was appointed to the said post by an order dated 24.3.79 and directed to report before Officer on Special Duty Eastern Railway at Mughalsarai.

3. The post of Steno under Officer on Special Duty (OSD) Mughalsarai carried pay scale of Rs.425 - 700. A suitability test for this post was held from amongst the Stenos in the scale of Rs.330 - 560 and the applicant on being found fit was promoted as Steno in the scale from 13.9.79.

4. He was next promoted in the scale of Rs.550 - 750

as Confidential Assistant on 6.1.1982 for a period of 3 months, this was extended from time to time till 31-7-1983. Regular promotion, however, was issued by an order dated 1.9.1983 effective from 1.8.83. His pay was fixed at Rs.750/- and in course of time with normal increment on 1.1.86 his pay stood at Rs.630/-.

4. He passed Hindi Pragya examination for which by an order dated 14.3.86, he was given an additional increment of Rs.20/- w.e.f. 1.3.1986. With this increment his pay was raised to Rs.650/- and on the revised pay scale of Rs.1600/- to 2660 his pay was fixed at Rs.1850/-. He retired from service on 1.5.1986.

5. He represented to the authorities on 15.2.1988 to fix his pay correctly. The authorities have informed him by letter dated 8-2-88 indicating particulars of pay drawn by him and pay due to him and excess amount paid was to be adjusted.

6. The respondents in their reply contended that the petitioners' claim for the scale of Rs.425/- to 700/- is wrong since he was appointed in the grade of Rs.330/- Rs.560/-. It was a higher promotional post and after selection the applicant was posted in the higher scale and he was paid regularly from the date of his promotion. The post of Steno under OSD was sanctioned on 10.8.79 and the applicant cannot claim this from the date of his joining the service. He worked as Office Superintendent Grade II from 6.1.1982 to 31.7.1983 as Confidential Assistant from 2.8.83 to 30.4.86. As his posting was ad-hoc, officiation pay was paid. So far as Hindi increment is concerned, it is not permissible since he retired before his increment date. Now all dues have been assessed and the applicant has not furnished the requisite form for making payment.

7. Heard the arguments and perused the documents

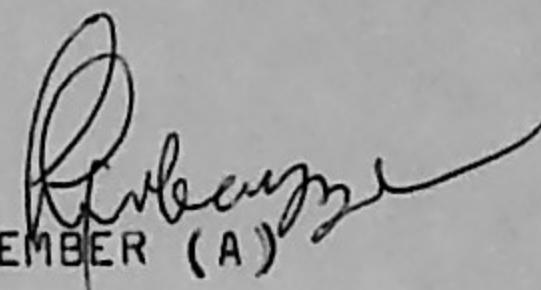
on record. The main point of dispute is that the claim of the applicant for the pay on scale Rs.425 - 700 from 24.3.76 i.e. the date he joined the post of Steno under OSD. It is seen from the records (Annexure-2) that the sanction of this post on this scale was given on 10.8.79. Prima facie it would appear that the claim of the applicant for a higher scale is not tenable. Even if a person on a lower scale officiates on higher scale without selection or promotion is not entitled for the higher scale. In this case suitability test was held and the applicant being found suitable he was promoted to the scale. As such he is entitled for the scale only from the date he was appointed after suitability test and not earlier. There is no dispute on other issues. For passing Hindi test, he was sanctioned an increment of Rs.20/- to be effective from 1.3.1986. It is not an annual increment, but additional increment given as an incentive. According to the order No.0320 of 1986 dated 14.3.86 issued by Mandal Karmik Adhikari this increment was to be paid w.e.f. 1.3.1986 which means the applicant should have been paid Rs.650/- per month for the months of March and April, 1986.

8. This increment will also result in changes in the revised pay scale implemented as a result of recommendation of 4th Pay Commission. The respondents are directed to verify the leave account since the applicant claims his entitlement to 190 days instead of 180 days and this may be settled as per the rules applicable at that time. The respondents are further directed to revise the pay of the applicant keeping in view the increment given to him for passing the

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Hindi Test and fix the salary accordingly. They are also further directed to settle all the dues outstanding to the applicant within three months hereof.

9. The application is allowed as above.
Parties to bear their costs.


R. Bhagat
MEMBER (A)

(sns)

December 15, 1989

Allahabad.