

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 13th day of July 2000.

ORIGINAL APILICATION No. 606 of 1992.

CORAM:-

Hon'ble Mr. R. R. K. Trivedi, V.C.

Hon'ble Mr. S. Dayal, Member (A).

Smt. Sudhesh Bhamari,  
wife of late Shri Manohar Lal Bhamari,  
R/o 40 Mahant Road,  
Dehardun.

..... Applicant.

Counsel for the applicant;- Shri A. K. Gaur.

V E R S U S

1. Union of India through Secretary,  
Forest and Environment, C.G.O.O. complex,  
Lodhi Road, New Delhi.
2. State of Uttar Pradesh through the Secretary,  
Forest Section \_I ( Van Anubhaq)  
U.P. Government, Lucknow.
3. The Principal Chief Conservator of Forest  
U.P. Government, Lucknow.

..... Respondents.

Counsel for the respondents;- Shri K. P. Singh.

O R D E R

( By Hon'. Mr. S. Dayal, A. M. )

This application has been filed for direction to the respondents to issue a revised pay slip in favour of the applicant and for payment of the arrears of senior scale of pay from 20.06.1973 to 30.07.1979 for which the husband of the applicant was given notional promotion.

The applicant has also sought the direction to the respondents to consider the recommendation of respondent No.3 for grant of selection grade to her husband w.e.f. 18.06.1978.

2. Case of the applicant is that her husband was appointed in Indian Forest Service and was allotted to the year 1964. Three other persons were also appointed along with her husband to various states vide letter dated 26.10.1972. The applicant's claim is that the period of probation of her husband had been completed on 31.03.1973 and he was entitled to be given the promotion to the senior scale of pay from 01.04.1973. The applicant has claimed that one Shri V. R. Chitrapu whose name is mentioned at Sl.4 in common appointment order dated 26.10.1972 has already been given senior scale w.e.f. 01.04.1973 vide Government of Tamil Nadu order dated 01.04.1976. In the Government order it was held that Shri Chitrapu was to be given arrears from the date of promotion to the senior scale. The applicant claimed that her application for her husband's promotion to the senior scale was not accepted by the respondents till 11.04.1989 when letter by which husband of the applicant was promoted w.e.f. 20.06.1973 on notional basis was issued. The applicant was thus deprived of the financial benefits payable to her on account of promotion her husband to the senior scale w.e.f. 20.06.1973. She has mentioned that her husband died in 1979.

3. The case of the applicant has been contested by the respondents by stating that the applicant's husband was promoted to the senior scale vide order dated 30.09.1977 and he did not submit any objection to the order. The applicant's husband was appointed

to the senior scale w.e.f. 17.04.1974. The applicant's husband was allowed fixation of pay on the basis of his promotion in the senior scale w.e.f. 17.04.1974 but his arrears were not to be paid till the date on which he started working on a post of senior scale. The Government of India, Department of personnel and Administrative Reforms in their letter dated 23.04.1977 (C.A.II) had mentioned that arrears should be paid from the actual date of promotion. In the present case the husband of the applicant was appointed to senior scale w.e.f. 17.04.1974. He was appointed notionally by the respondents in the senior scale because he did not work on that post from this date.

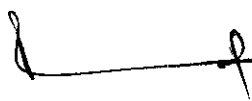
4. We find that in case of Shri Chitrapu who was appointed along with the applicant <sup>husband</sup> and was also given senior scale from a retrospective date, he was held entitled to arrears of pay from the date of promotion. The applicant has not been held entitled on the other hand because he did not work on a senior scale post. It is admitted that both the officers did not work on the posts in the senior scale but in case of Shri Chitrapu he has already been given senior scale of pay from the date of promotion and in case of applicant's husband, the same has been denied.

5. It is not in dispute that the applicant was deprived of his promotion due to no fault of his with effect from 20.06.1973. He died before he was given promotion with retrospective effect from 20.06.1973. The order would be a meaningless gesture if no tangible benefit occurred to his heirs and successors out of this. We cannot presume that this was the case in view of issuance of order dated 11.04.1989 granting promotion to the applicant to senior scale with retrospective effect from 20.06.1973.

6- We, therefore, hold that the applicant's husband was entitled to benefits of pay and allowance of senior scale w.e.f. the date of promotion which was 20-6-1973. The applicant's husband would also <sup>be</sup> entitled to consequential benefits including consideration for promotion to the selection grade and fixation of family pension of his wife as per extant rules. The respondents ~~and~~ directed to consider grant of these benefits within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

  
Member (A)

  
Vice-Chairman

/Anand/