

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 726 of 1992

Allahabad this the 04th day of September, 2000

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S.K.I. Naqvi, Member (J)

Kripa Shanker, Son of Sri Kanhaiya Lal, resident
of 28-B/66-A, Shivpuri Marg, Sohbatiyabagh, Allahabad.

Applicant

By Advocate Shri V.K. Goel

Versus

1. Union of India through the Secretary,
Ministry of Defence, New Delhi.
2. Controller General of Defence Accounts,
New Delhi.
3. Controller of Defence Accounts (PD),
Meerut.

By Advocate Km. Sadhna Srivastava

O R D E R (Oral)

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

Sri Kripa Shanker has come up before
the Tribunal seeking the relief to the effect that
the order dated 08.3.1991 passed by Controller of
Defence Accounts (PD), Meerut be quashed and the
respondents be directed to pay arrears of salary
as due to him after allowing the increment which
has fallen due with effect from 01.9.1991, and
also to promote the applicant on the post of

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Section Officer(ACcounts) in the grade of Rs.1640-2900 w.e.f. the date his juniors have been promoted alongwith all consequential benefits. Because of development during the pendency of the O.A., the applicant has brought another relief through amendment to the effect that the respondents be directed to fix seniority and pay^{of} the applicant atleast with effect from 24.12.1990 over and above Sri S.C. Gupta, from ~~which~~^{the} date, the next junior ~~to~~^{of} the applicant i.e. Sri S.C. Gupta was promoted as Section Officer(Accts), and to pay all consequential benefits.

2. As per applicant's case, he was promoted as Senior Auditor in the year 1987 at the Office of Chief Controller of Defence Accounts(Pension), Allahabad. It was on 10/10/88, an amount of Rs.1055/- as pension of one Sri N. Mitra, retd. Subedar, was disbursed and paid by the applicant to Sri N. Mitra. Sri Mitra preferred a complaint that the amount of pension had not been paid to him on 10.10.1988, which was followed by the departmental proceedings against the applicant, resulting into the impugned order. The impugned order dated 08.3.1991 was passed awarding the penalty of stoppage of 3 increments for a period of 3 years without cumulative effect. Against this order, the applicant preferred a departmental appeal, which has been decided on 05.6.1992, and the appeal was dismissed. As per development, during the pendency vide order

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dated 08.9.94, the applicant has been promoted to the officiating S.O.(A) grade from the date of assumption of new charge ^{at} in his place of posting and has been given notional seniority/fixation w.e.f. 28.8.1991 (to keep him at par with the conferers), however financial benefits to be allowed with effect from the date of assuming duty. These developments, during pendency, have been brought on record by the applicant through amendment of pleadings and ~~now~~ ^{is} another relief has been impleaded, as mentioned above.

3. The respondents have contested the case and justified the impugned order being in accordance with law and rules in this regard.

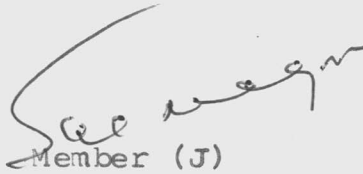
4. Heard, Shri V.K. Goel, learned counsel for the applicant and ~~Shri~~ Km. Sadhna Srivastava, learned counsel for the respondents and perused the record.

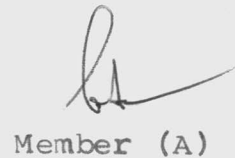
5. During the course of arguments, Sri V.K. Goel, learned counsel for the applicant has only pressed that the applicant has wrongly been promoted w.e.f. 28.8.1991, whereas he ought to have been promoted w.e.f. 24.12.1990 when next junior to him Shri S.C. Gupta was promoted and his pay shall also be fixed accordingly. It is quite evident from the pleadings from either side that Shri S.C. Gupta is junior to the applicant and was promoted w.e.f. 24.12.1990. It is also not in dispute that the promotion of the applicant has notionally been given effect from 28.8.1991.

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Learned counsel for the respondents could not convince us ^{as} to how the respondents could arrive at this date '28.8.91'. There could be some reason, this date could have been 08.9.94, when the applicant was promoted or it could be 24.12.90, when his next junior Shri S.C. Gupta was promoted. The promotion order mentions this date '28.8.91' to keep him at par with the conferers, who could obviously be junior to the applicant and next junior to the applicant was promoted on 24.12.90, and therefore as per own assertion of respondents, though not expressly made, this date of promotion ought to have been 24.12.90.

6. For the above, we find a fit case to direct the respondents to allow notional seniority/fixation of salary to the applicant to the promoted post of officiating S.O.(A) w.e.f. 24.12.1990 when next junior to him was promoted. However, financial benefits will be allowed w.e.f. the date, he assumed duty to the promoted post. The O.A. is disposed of accordingly. No order as to costs.


Member (J)


Member (A)

/M.M./