

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 16TH DAY OF NOVEMBER, 2000

Original Application No.679 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Asharfi Lal, substituted by
Smt. Pralapi Devi a/a 56, W/o Late Asharfi Lal
R/o Bhairapur, P.O.Mungra Badsahapur
District Jaunpur.

... Applicant

(By Adv: Shri R.C.Sinha)

Versus

1. The Union of India & Others Through
Secretary,
Central Board of Excise
New Delhi.
2. The Collector Central Excise
Allahabad.
3. The Collector Central Excise
Kanpur.
4. Administrative Officer(Accounts)
Central Excise
Kanpur.
5. Shri A.W.Calop, Supdt.
Central Excise,
Allahabad.

... Respondents

(By Adv: Shri S.C.Tripathi)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi, V.C.)

By this application u/s 19 of the A.T.Act 1985 the applicant has challenged the order dated 3.12.1992 by which his claim for higher pay scale was refused on the ground that he was promoted subsequent to W.A.Calop, respondent no.5. After hearing counsel for the parties and on perusal of the record, the undisputed factual position is that applicant Asharfi Lal was senior to C.A.Calop, respondent no.5 as Sub Inspector, Group 'B'. W.A.Calop was promoted as Inspector Ordinary grade on

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25.7.1970. However, as disciplinary proceedings were pending against the applicant he was not promoted until, by order of Appellate Authority dated 19.4.1973, [^]the order of punishment awarded was set aside. The applicant was given promotion on 9.8.1973. However, as there was difference in pay of the applicant and W.A.Calop he made a representation and by order dated 22.2.1996 the following order was passed by Central Excise Commissioner, Allahabad.

"In partial modification of this Office Estt Order No.145/73 dated 07.08.1973 issued under C.No.II-145-Estt./63/1905 dated 8.8.1973 the promotion of Shri Asharfi Lal Sub Inspector(New Supdt.Gr.'B' retired) to the grade of Inspector(OG) is antedated w.e.f. 25.7.1970 i.e. from the date on which his junior Shri A.W.Calop was promoted to the grade of Inspector(OG) Consequent to antedating of his promotion to the grade of Inspector(OG) his pay accordingly be notionally fixed w.e.f. 25.7.1970 but Shri Asharfi Lal will not be entitled to any arrears."


The natural consequence of the aforesaid order was that pay of the applicant on the post of Inspector(OG) should have been calculated from 25.7.1970 and the payment should have started from the date of actual promotion i.e. 9.8.1973. As both applicant and respondent no.5 were promoted on the same date as Inspector(OG) they ought to have been given the same pay. It was a mistake in fixation and calculation of the salary which has been wrongly refused to be corrected by the impugned order. The applicant is thus, in our opinion entitled for the

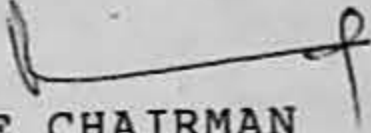
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relief.

For the reasons stated above, the impugned order dated 3.12.1992 is set aside. The respondents are directed to fix the pay notionally w.e.f. 25.7.1970 and recalculate the entire salary, arrears, pension etc. This should be done within three months. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 16.11.2000

Uv/