

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT NAINITAL

Nainital this the 19th day of April, 2001

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. Gen. K.K. Srivastava, A.M.

Original Application No. 623 of 1995

H.B.L. Nagpal S/o Sri Tek Chand. R/o 77/2, Friends Colony,
Ballupur, Dehradun. At present working as Officer Surveyor
in No. 20 (Photo) Party (NC), Survey of India, Dehradun.

.....Applicant.

Counsel for the applicant :- Sri K.C. Sinha

V E R S U S

1. Union Of India through the Secretary to the Govt. of
India, M/o Science and Technology, Technology Bhawan,
New Mehrauli Road, New Delhi.
2. The Surveyor General of India, Survey of India,
Hathibarkala, Dehradun.

.....Respondents.

Counsel for the respondents:- Km. Sadhna Srivastava

O R D E R (Oral)

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

By this application under section 19 of the
Administrative Tribunal's Act, 1985, applicant has prayed
for stepping up of the pay and to make it equivalent to
the salary paid to Sri S.L. Khanna, junior to him w.e.f
23.02.85. It is not disputed that both applicant and Sri
S.L. Khanna joined as Topo Trainee Type 'A' w.e.f 28.09.63

under the Surveyor General of India. It is also not disputed that Sri S.L. Khanna was junior to the applicant. However, it is contended that as Sri S.L. Khanna was given adhoc promotion and was posted at Hyderabad, the difference in pay-scale arose and applicant is not entitled for any relief as he was not relieved ^{from} ~~to~~ Shillong to join the promotional post of Officer Surveyor Group 'B' post.

2. The claim of the applicant on the other hand is that he was promoted from the post of Surveyor (Selection Gr.) to the post of Officer Surveyor Group 'B' by order dt. 13.03.79 (annexure- 1). He was not relieved by the authority concerned and he could not ^{be} joined on the promotional post ~~at Shillong~~. We have perused the pleadings of the parties. From the letter dt. 04.02.80 (annexure- 2) it appears that the request was being made to the higher authority to promote the applicant and allow him to continue at Dehradun. It was also stated that it would be in the public interest as his services are required on account of transfer of some officers. It is not disputed that the applicant was not relieved after transfer. In these circumstances, in our opinion applicant was deprived of the chance of promotion by the department and not that he had refused to join at the promotional post.

3. Km. Sadhna Srivastava, learned counsel for the respondents has submitted that if applicant was not relieved, he should have represented before the higher authority. The same plea has been raised in the C.A. It is also submitted that willingness to move out-side was expressed for the first time in 1981. We have perused the material on record. Now it is difficult to accept the contention of learned counsel for the respondents. The applicant could not be expected to move unless he is relieved by the authorities which in the present case has not been done at any time.

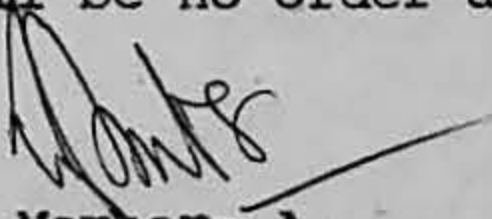
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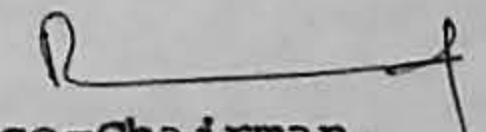
It is another matter that the applicant would have felt ⁱⁿinconvenience to continue at Dehradun. For giving effect to the order of promotion ^{and} coupled with transfer relieving was must. In the circumstances, in our opinion, applicant is entitled for relief.

4. The next related question is that from which date ^{may be} he/allowed this benefit. As stated by the applicant, the injustice was done to him in 1985 but he felt satisfied by making only representations to the Government and filed this O.A in 1995 after rejection of the representation. The legal position with regard to representation on question of limitation is well settled now. If the representation is made by the employee against ^{injustice caused to him} any rank, he may wait for decision for six months and thereafter he may approach the Tribunal immediately. In the present case the applicant could not file O.A earlier than 3rd July, 1995 on the basis that representation is being heard. In our opinion, the applicant may be given benefits ^{from the date he filed} ~~as claimed in the O.A.~~

5. The O.A is accordingly allowed. The respondents are directed to fix the pay by stepping up and bring equivalent ^{to} the salary paid to Sri S.L. Khanna, his junior. However, monetary benefit shall be available only w.e.f 03.07.95. For stepping up with regard to earlier ^{period it shall be} ~~benefit is~~ only notional. In pursuance of this order benefit accrued to the applicant shall be paid within six months.

6. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/