

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLU BENCH
ALLAHABAD

DATED: ALLU. on this 5th Day of May 1998.

CORAM : HON'BLE MR S K AGRAWAL J.M.

=====

ORIGINAL APPLICATION NO. 946 OF 1995.

Shri R P Srivastava, S/o Late Bhagawati
Prasad (Retd Supdt of Central Excise),
R/o 117/3, Kajipur Kadan, Gorakhpur.

... Applicant.

C/A Shri A N Sinha and
Shri O P Khare.

Versus

(1) The Union of India through
The Secretary
Ministry of Finance
Department of Revenues, New Delhi

(2) The Collector of Customs and Central Excise
Allahabad

... Respondents

C/R Km Sadhana Srivastava

ORDER

(By Hon'ble Mr S K Agrawal, J.M.)

In this original application, the applicant has
prayed that directions may be given to Respondent No.2 to
implement the order dated 18-02-92 with all consequential
benefits retrospectively and to allow the applicant crossing
of Efficiency Bar (EB) which has been illegally withheld and
revise the pay of applicant and pension as per Tribunal's
order dated 18.02.92 in O.A. No.1920/87.

S. K. Agrawal
SKA

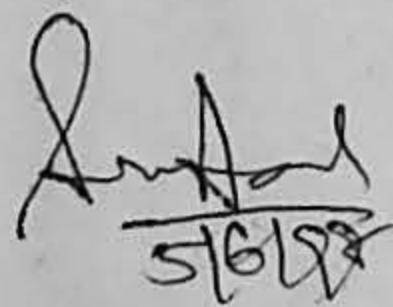
2. The brief facts as stated by the applicant in his original application, are that the applicant was served a charge sheet while working as Superintendent, Central Excise under the respondent No.2 at Allahabad and after completion of enquiry proceedings a punishment order was passed on 31.12.1982 i.e. after his retirement, imposing cut of 10% of his basic pension for two years. Even before start of enquiry proceedings his efficiency bar at the stage of Rs.1000/- in the pay scale of Rs.650-1200/- was not allowed due to which his annual increments which fell due on 1.12.81 and 1.12.82 were not given to him. It is submitted that applicant filed original application No.1020/87 against the order of respondent No.1 dated 4.8.1986 which was finally decided in applicant's favour. Thereafter, applicant submitted representations on 3.1.93, 15.9.94 to the respondent No.1 and 2 to restore cut in Pension as per direction of this Tribunal dated 18.2.92 as corrected 11.6.92 and also pass orders for crossing the efficiency bar as on 1.12.81 at the stage of Rs.1000/- . The applicant also sent a reminder to the Secretary, Ministry of Finance, Govt of India, New Delhi on 15.4.95. It is also submitted that applicant was never communicated the reasons for withdrawing the efficiency bar within due time. The applicant was also confirmed as Superintendent, Central Excise on 1.5.79 taking into consideration his good record of service. Therefore, there was no justification for withholding his Efficiency bar. It is therefore, requested that directions may be given to the Respondent No.2 to implement the order dated 18.2.92 in favour of the applicant with all consequential benefits retrospectively and to allow the applicant crossing the efficiency bar which was illegally withheld and to revise the pay of the applicant and also all the amount of the pension as per the Tribunals order dated 18.2.92 passed in O.A.NO.1020/87 and allow the interest @ 18% on the unpaid claim. The counter was filed by the respondents. It is stated in the counter that since a decision was already taken to issue a charge sheet for major penalty to the

Sudhakar
SP6128

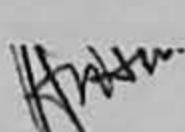
to the applicant, efficiency bar due on 1.12.81 could not be crossed earlier. Memo of charge sheet for major penalty was issued on 9.8.89 (89) and increment due on 1-12-82 was also not drawn due to bar on 1.12.81. It is submitted that the case of the petitioner for crossing the efficiency bar was placed before Departmental Promotion Committee (DPC) and the DPC while considering his case gave findings to the effect " NO CONSIDERED AS DISCIPLINARY CASE PENDING" ~~against him~~

~~against him~~

The disciplinary proceedings against the petitioner was decided vide ~~order~~ order dated 4-8-86. Thereafter his case has been considered and ~~thence~~ further the Ministry of Finance vide their letter F. No. A-29014/5/87-Ad.IIB dated 11-8-87 have also intimated to the petitioner that it is not possible to accede to his request for crossing of efficiency bar from due date ~~date~~.e.f. 1-12-81. It is submitted that after the judgement dated 18.2.92 and 11-6-92 of this Tribunal, the matter was referred to the Ministry on 10.04.92 for decision as to filing of appeal or to accord permission to implement the said Judgement, but no final decision has been communicated so. Respondents could proceed only to implement the judgement dated 18.2.92 of the Tribunal that is why the implementation of the Judgement of CAT, Allahabad dated 18.2.92 & 11-6-92 could be carried out. Therefore, on the basis of the averments made in the counter, respondents have requested to dismiss the D.A. with cost.


5/6/88

3. At the time of hearing this petition, it was admitted by the learned lawyer for the parties that vice Establishment Order No. II(3)04-CUNFL/93,257 dated 22-2-96, Commissioner, Central Excise, Allahabad has passed the order



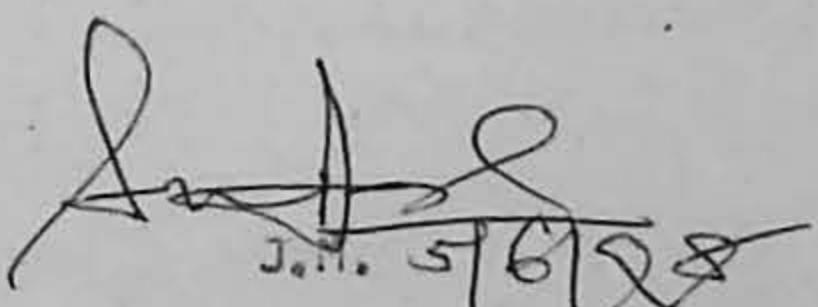


allowing to cross the efficiency bar in the pay scale of Rs.550-1200/- at the stage of Rs.1000/- w.e.f. 1-12-1981 in favour of the applicant. Therefore, this grievance of the applicant does not exist. It is also admitted by the learned lawyer for the parties that Pay and Accounts Officer, Central Excise, Allahabad vide its order No.PAO/CEX/ALD/Per/568 dated 10.4.96 passed the order revising the pension of the applicant i.e. Shri Radhika Prasad Srivastava in detail and this order has been communicated to the applicant.

4. Learned lawyer for the applicant has stated that as per order issued by the respondents (departmental authorities) at Annexure RA-I and at Annexure RA-II, no payment has been made to the applicant so far.

5. I, therefore, order that payment of arrears in consequence of the order at Annexure RA-I pertaining to crossing of Efficiency Bar and order dated at Annexure RA-II pertaining to revised pension etc. be made to the applicant within a period of three months from the date of receipt of the copy of this order. If the respondents will delay the payment thereafter the applicant is entitled to interest @ 12% on delayed payments.

6. In the circumstances of this case, parties shall bear their own costs.


J.M. 5/6/28

ant/-

H.M.

v-