

Deputation allowances,
Fixation of pay & Pension
(No)

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 327 of 1988
~~XXXXXX~~

DATE OF DECISION 21.1.1992

Shri M.C. Rath Petitioner

Shri M.K. Oza Advocate for the Petitioner(s)

Versus

State of Gujarat & Ors. Respondent

Shri Anil Dave, Shri B.B. Naik Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt

: Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *X*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *X*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *7*

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Shri M.C. Rathi
(Advocate : Shri M.K. Oza)

... Applicant

VS.

State of Gujarat & Ors.
(Advocate : Shri Anil Dave
Shri B.B. Naik)

... Respondents

O R A L - J U D G E M E N T

O.A.No. 327 of 1988

Date : 21.1.1992

Per : Hon'ble Mr. R.C. Bhatt

: Member (J)

Mr. M.K. Oza appears for the applicant. None present for the respondent. This application is filed by the applicant, who was serving as Chitnis to the Collector, Surendranagar District in the State of Gujarat, and who on deputation from 10.9.1979 served the respondent no. 3 as Development & Planning Officer till his date of retirement, for getting the deputation allowance from 10.9.1979 to 30.9.1982 from respondent no. 2 in relaxation of O.M. No. F/10(24)E-III/60 dated 4.5.1961. The grievance of the applicant arose by reason of a letter of respondent no. 3 dated 15.1.1986, annexure A/6, by which the respondent no. 3 informed the applicant that the Ministry of Home Affairs, New Delhi vide their letter No.14023/2/82 GP (I)

dated 5.12.1985, which is produced by respondent no. 3 at page 63, rejected the applicant's request.

2. It is the case of the applicant that he started actually serving on deputation by joining his duties on 10.9.1979 and worked there right upto 30.9.1982. It is his case that when he joined on deputation under Union Government, he was governed by the conditions of service pertaining to State Government and also the service pertaining to Union Government produced collectively at annexure A/2. He submitted that persons similarly situated have been given full deputation allowances according to his knowledge, while the applicant and eight other have not been given full deputation allowances, and hence this application.

3. The learned advocate for the applicant submitted that before deputation to respondent no. 3 by the State of Gujarat, the applicant was drawing the salary of Rs.650-1200 in parent department in Gujarat State while on his actual posting as Development and Planning Officer the scale of pay was Rs.550-900 per month.

4. The learned advocate for the applicant submitted that O.M. on which the full deputation allowance is not given to the applicant is produced at page 17 which reads as under;-

"During the period of deputation Shri M.C.Rathi
Land Reforms Officer will have the option either

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to get his pay fixed in the deputation post under the operation of the normal rules or to draw pay of the post held by him in his parent department plus a deputation (duty) allowance at 20% in accordance with and subject to the conditions of the Ministry of Finance's O.M. No. F-10(24) E-III/60 dated 4.5.1961, provided that the pay plus deputation allowance should not exceed the maximum of the pay of the post held on deputation."

The learned advocate for the applicant submitted that the salary to be paid on deputation was less than the salary which was received by the applicant in parent department. On the date of deputation the applicant was drawing Rs.775/- per month when he was deputed to respondent no.3. The learned advocate for the applicant submitted that if O.M., page 17, is relaxed and if he is given 20% deputation allowance on the pay scale of Rs.550-900 he would get 20% of Rs.775/- per month i.e. Rs.155/- per month more for the first year of deputation, Rs.162/- per month more for the second year, Rs.169/- per month more for the third year and Rs.167/- per month more in the fourth year of deputation till the date of superannuation. He submitted that the respondent did not allow the full deputation allowance on the basis of the O.M., page 17, because it would increase the maximum pay scale to Rs.900/- admissible to the applicant on deputation which resulted in loss of Rs.30/- per month to the applicant for the first year, Rs.72/- per month for the second year, Rs.114/- per month for the third year and

Rs.156/- per month for the fourth year till the date of superannuation. In short, the applicant was paid only Rs.900/- per month which was the maximum salary in the post of deputationist where he was deputed and the applicant's demand in this original application is to pay deputation allowance of 20% on the basis of his scale in parent department.

5. The learned advocate for the applicant drew my attention to page 26 annexure A/3 dated 22.1.1980 by which the respondent no. 3 wrote a letter to respondent no. 2 drawing his attention to the case of this applicant about deputation allowance and requested respondent no. 2 to give sanction for granting full deputation allowance to the applicant from 10.9.1979 onwards in relaxation of Ministry of Finance's O.M. No. F-19(24)E-III/60 dated 10.3.1967. The learned advocate for the applicant submitted that the Ministry of Finance's O.M. No.F-19(24)E-III/60 dated 10.3.1967 is identical to O.M. produced at page 17. It is important to note at this stage that the respondent no. 3 has annexed the statement showing the details of difference in deputation allowance of the applicant along with the letter, annexure A/3. Another letter addressed by respondent no. 3 to respondent no. 2 on this point is dated 26.9.1981, page 28. Next such letter addressed by respondent no. 3 to respondent no. 2 is dated 18.2.1981 in which it is specifically mentioned that in some cases

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the Home Ministry has given same type of benefit and the same type of cases have been referred to another Ministeries, While in some cases to the same type Home Ministry has not agreed to vide letter dated 16.12.1980 which will create dissatisfaction amongst the deputationists and it was stated in this letter to consider all deputationist who were getting less deputation allowance. There were two statement annexed with this letter. The Statement no. 1 shows the names of fifteen officers who were granted relaxation in deputation terms allowing the draw of deputation allowance in full and who were on deputation from Government of Gujarat to respondent no. 3 and other places, and statement no. 2 shows details of deputationists who were drawing deputation allowance less, which were nine in number including the applicant.

Similar letter was also addressed by respondent no. 3 to respondent no. 2 dated 24.12.1981, which is at page 32, in which it is mentioned that had the case of Shri Rathie been reported to Ministry of Home Affairs, it would have been sanctioned along with the case of Shri K.T. Chaddarwala and Shri T.D. Patel and who were from the same department from Government of Gujarat. This letter also shows that Shri Chaddarwala was junior to Shri Rathie and got more pay and allowances while the applicant being senior got less, which has created disparity among the officers. There were

other also such letters shown to me by the learned advocate for the applicant. The fate of the applicant was sealed by the reply of respondent no. 2 to respondent no. 3, copy of which is produced by respondent no. 3 at page 63, which is reply dated 4.12.1985. The respondent no. 3 has contended in the reply that respondent no. 2 was requested to reconsider the applicant's case and in the light of Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms O.M. dated 26.12.1984, the matter was again referred to Government of India alongwith fixation of pay of the applicant. But the case of the applicant was turned down as per reply on page 63 dated 4.12.1985 relying on the O.M.

6. Respondent no. 1 and 2 have not filed any reply.

7. The learned advocate for the applicant submitted that inspite of the recommendation by respondent no. 3 to respondent no. 2 that fifteen officers similarly situated were given full deputation allowance in relaxation of the O.M. why discrimination is shown to the applicant. As observed above in letter dated 24.12.1981, produced at page 32, the respondent no. 3 has specifically drawn the attention of respondent no. 2 about the discrimination between the applicant and Mr. Chadarwala who was junior to the applicant and who got more pay and allowance than the applicant. Having considered the reply of respondent no. 3 and the documents

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produced on record by the applicant and respondent no. 3, this is a fit case in which direction requires to be given to respondent no. 2 to consider the case of the applicant with similarly situated persons on deputation more particularly with the case of Mr. K.T. Chadarwala and Mr.T.D. Patel who belong to the same department and the applicant's case be considered in relaxation of O.M. No. F-19(24) E-III/60 dated 10.3.1967 and then to dispose of the representation, annexure A/4, dated 27.1.1983 made by the applicant to the Joint Secretary to Government of India, Ministry of Home Affairs, New Delhi on the question of his deputation allowance. Hence the following order is passed :-

O R D E R

The respondent no. 2 is directed to dispose of the representation of the applicant dated 27.1.1983 annexure A/4, keeping in mind the letter dated 24.12.1981 by Secretary to the Administrator, Dadra and Nagar Haveli, Silvassa i.e. respondent no. 3 to the Desk Officer, Ministry of Home Affairs, Government of India, New Delhi showing discrimination and the treatment given to the applicant on one hand and two other officer of the same department on the other hand on the point of deputation allowance and also keeping in mind the statement I & II produced with the letter dated 18.2.81 pg. 29, be respondent no.3 to respondent no.2 and to consider the case of the applicant about relaxation of O.M. the benefit of which was given to other similarly situated persons. The respondent no, 2 to dispose of the representation as per the above direction within four months from the date of the judgement received by respondent no. 2, keeping in mind

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is
that this ~~a~~ case of a government servant
who has retired as back as on 30.9.1982.
The application is disposed of accordingly
with no orders as to costs.

R.C. Bhatt

(R.C. BHATT)
Member (J)

*Ani.