

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 159/90
T.A.NO.

DATE OF DECISION 17.10.97

Shri T.S.Gohil Petitioner

Mr.K.K.Shah Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mrs.P.Safaya Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Radhakrishnan : Member (A)

The Hon'ble Mr. T.N.Bhat : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

Shri T.S.Gohil,
c/o.K.K.Shah, Advocate,
3, Achalayatan Society,
Div.II, Near St.Xavier's
High School, Nayrangpura,
Ahmedabad-9.

: Applicant

(Advocate: Mr.K.K.Shah)

Versus

1. Union of India
Notice to be served
through: Director General,
Department of Post,
New Delhi.
2. Director of Accounts,
Office of the Director of
Accounts (Postal)
Nagpur-400 001.

: Respondents

(Advocate: Mr.Mrs.P.Safaya)

: J U D G M E N T :

O.A.159/90

Date: 17.10.97

Per: Hon'ble Mr.V.Radhakrishnan

: Member (A)

The applicant was working as Group-B Officer of the PSS and later on he promoted to PSS Gr.B with the respondents. The applicant was senior to among Shri S.B.Patel as per Annexure A-3 dated 10.10.80. The pay of the applicant was 775/- while Shri Patel's pay was Rs.795/-. However, his junior Shri Patel due to his adhoc promotion started drawing higher pay than him and praying for stepping up of his pay at the level of his junior. The prayer was accepted by DGP & T New Delhi vide his letter dated 31.7.85 (Annexure A-4) and refixed the pay of the applicant along with others at Rs.795/- with effect from 4.11.1980. The applicant had

for

then written a letter to the authorities to revise his pay entitlement according to the letter. However, the Director of Accounts (Postal) Nagpur vide his letter dated 5.9.95 (Annexure A-5) stated that the applicant's pay in non-gazetted cadre has been stepped up after the date of his promotion in gazetted cadre i.e. 10.10.80 and from that date he had been continuously officiating in the gazetted cadre. Accordingly, they refused to give effect to the re-fixation of pay sanctioned by the DGP & T, New Delhi dated 31.7.1995. The applicant then represented to the Director General, Department of Posts, New Delhi on 24.12.88. His request was also not accepted. Accordingly, the applicant prays for the following reliefs :-

- (a) This Hon'ble Tribunal may be pleased to direct the respondents to fix the pay of the applicant from 4.11.80 at Rs.795/- as stated by the respondents in their order dated 31.7.85 the date when his junior Shri S.B.Patel was getting the same pay or any other date of Hon'ble Tribunal feel so while deciding the matter and direct the respondents to pay the difference of salary with consequential benefits from 4.11.80 with 18% interest per annum by holding the action of the respondents hence illegal.
- (b) This Hon'ble Tribunal may be pleased to allow this application with costs.
- (c) Any other order or directions may be deemed fit by this Hon'ble Tribunal in the interest of justice will be passed."

The respondents have filed reply. They have contested the application. Firstly, they have taken

the preliminary objection regarding delay and laches in submitting the application. They have stated that the applicant's pay could not be stepped up notionally w.e.f. 4.11.80 since the applicant was officiating continuously in Postal Superintendent's Service Group-B Class-II w.e.f. 10.10.80 and as such he never held the post of HSG-I on or after 4.11.1980 i.e. the date on which the stepping up was ordered by the D.G. Moreover, the conditions mentioned in the Government of India O.M. No.F-I (35) E-III(A)/74 dated 18.7.1974 were not fulfilled by the applicant. Hence, the applicant is not entitled for any relief.

We have heard the arguments of both the learned counsels and gone through the documents on record.

It is not disputed that the applicant is senior to Mr. Patel in the cadre and a Presidential sanction was issued refixing the applicant's pay at Rs.795/- on 4.11.80. It is also a fact that the Accounts authority have denied the benefit of the Presidential sanction which has resulted the denial of the benefits of refixation of pay to the applicant by which his pay was refixed on par with his junior by the Presidential order after examining the facts of the case. The contention taken by the Accounts authorities that the applicant had been promoted from 10.10.80 to gazetted cadre and as he was not holding the post of HSG-I on or after 4.11.80 the date on which the refixation of order cannot be accepted. The benefit of refixation of pay in the

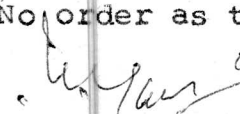
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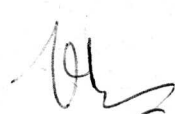
(18)

substantive pay of the applicant in HSG-I should have been given from 4.11.80 as per the Presidential order. Furthermore as contended by the applicant the Director, Accounts had no authority to dispute the sanction issued with Presidential approval.

Taking into account the facts and circumstances of this case, the application is allowed. The respondents are directed to give effect to the Presidential order Annexure A-4 dated 31.7.1985 and take action to refix the applicant's pay at Rs.795/- in the scale of HSG-I (substantive) on 4.11.80 and refix his pay as in Postal Superintendent's Service Group-B Class-II on his promotion. The applicant will be entitled for arrears of pay fixation as ordered above. The applicant will also be entitled for refixation of his pension and pensionary benefits consequent on the refixation. He shall be paid the consequent arrears as early as possible not later than three months from the date of receipt of a copy of this order. However, we reject the request of the applicant for interest on the amount of arrears.

The application is disposed of accordingly.
No order as to costs.


(T.N. Bhat)
Member (J)


(V. Radhakrishnan)
Member (A)