

5
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 373 of 1993

Date of Decision: 6.7.94.

Govind Chandra Moharana

Applicant(s)

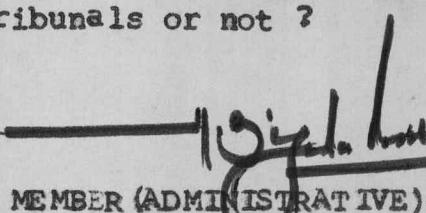
Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunals or not ?


MEMBER (ADMINISTRATIVE)

06 JUN 94
JUL

6
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 373 of 1993

Date of Decision:

Govind Chandra "Moharana" Applicant(s)

Versus

Union of India & Others

Respondent(s)

For the applicant

M/s. Deepak Misra,
A. Deo, B. S. Tripathy,
P. Panda, D. K. Sahu,
A. Misra, Advocates

For the respondents

Mr. Akhaya Kumar Mishra,
Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : The applicant, Shri G. C. Moharana, while working as Carpenter-II in the scale of Rs. 210-290/- (pre-revised) in Central Water Commission, was promoted to Grade-I in September, 1978. Although so promoted, his complaint is that he was not given the higher promotional scale of Rs. 260-350/- but continued in the earlier scale.

The Fourth Pay Commission recommended an upward revision of pay-scale of Rs. 950-1500 and Rs. 1320-2040 in place of the earlier scales of Rs. 260-350 and Rs. 380-560, respectively. These recommendations became effective from 1.1.1986, and the applicant's pay was regulated and fixed in the scale of Rs. 950-1500. He was not fitted into the higher scale of Rs. 1320-2040 which was available to officials in the pre-revised scale of Rs. 260-290/-.

— T. G. J. —

The main grievance of the applicant is that he should have been placed in the scale of Rs.260-290 while he worked in Grade-II and placed in Rs.380-560/- scale on promotion to Grade I. Since this was not done and as he continued to be in the scale of Rs.210-290, his post-revised fitment found him placed in the scale of Rs.950-1500 instead of the higher scale of Rs.1320-2040.

Shri Moharana represented his grievance to his superiors. The representation not having been disposed of within a reasonable time, he approached this Tribunal, whereupon, by an order in O.A.267/92, a direction was issued to the respondents to dispose of his representation at an early date. In complying with this direction, the respondents rejected his representation. Hence this application.

The applicant prays for quashing of the rejection, to confer on him the scale as claimed by him, and for granting consequential arrears of pay.

3. The Respondents in their counter-affidavit state that Shri Moharana's promotion to Grade-I was itself the result of an error since he did not possess a trade certificate from I.T.I., or practical experience of five years in Grade-II - his total service in the department having been less than 3 years as Khalasi and less than 2½ years as Grade-II Carpenter. But although he was erroneously promoted, he was allowed to remain in the upgraded Grade-I scale of Rs.210-290 and not demoted. When the Pay Rules of 1986 were implemented from 1.1.1986, on the basis of the recommendations of the Fourth Pay Commission, he should ^{actually}

1.25/-

have been fitted in the revised and upgraded scale of Rs.950-1400 as recommended by the Commission. He was, however, placed in Rs.950-1500 scale, which was slightly more than what the Commission had recommended. This slight excess was the result of another departmental decision - unconnected to the recommendations of the Fourth Pay Commission though following it sequentially - of reducing the number of categories of work-charged and miscellaneous trades by clubbing them in smaller groups.

4. The main stand of the Respondents is that the revised scale of Rs.1320-2040 claimed by Shri Moharana is available only to those officials who were in the scale of Rs.380-560 before the revision. And since he was only in the scale of Rs.260-350 at the time of the revision of scales, he was correctly fitted into the corresponding revised scale of Rs.950-1500 and he is not eligible for the higher scale claimed by him.

5. I have examined the facts of the case carefully. It is the case of the Respondents that Shri Moharana was not, in the first place, eligible for promotion to Grade-I, and the promotion accorded to him in 1978 was a mistake. He acquired the required trade certificate only in July, 1982. Also, at the time of his promotion he had completed no more than 2½ years in Grade-II, his earlier service prior to the promotion having been only in Khalasi's cadre. Despite this error, he was not penalised, reverted or demoted but allowed to continue in the scale of Rs.260-350, as against his

— 15 —

earlier Grade-II scale of Rs.210-290.

6. According to the applicant this scale (Rs.260-350) was not the appropriate scale for Grade-I Carpenter. He says that the correct scale for Grade-I was Rs.380-560 which was not given to him on promotion. The Respondents dispute the claim and cite the following grounds in support of their contention :

- A. The scale of Rs.380-560, claimed by the applicant, is the scale not for Carpenters, Grade-I, as argued by him, but Senior Carpenters. In support of this, a copy of an extract from the recommendations of the 3rd Pay Commission is produced.
- B. A post of Carpenter Gr-I was very much in existence in the scale of Rs.260-350 (given to the applicant on promotion to Grade-I) - within the organisation.
- C. There was neither any occasion, nor justification or need, to place the applicant at any time in the Grade of Rs.380/- to 560/- which, as stated above, is clearly earmarked for Senior Carpenters, a post to which the applicant was neither eligible, nor ever considered for promotion.
- D. The expression, 'Carpenter' and 'Carpenter Gr-I' were often loosely employed in various contexts, but in reality these were absolutely analogous to one another in terms of work as well as of emoluments. Thus both carpenter as well as Carpenter Gr.I were in the same scale of Rs.260-350/-.
- E. There were at least five categories of workers, viz., (i) Mason, Gr.I, (ii) Carpenter Gr.II, (iii) Carpenter or Carpenter Gr.I, (iv) Painter and (v) Mistri who were all in the scale of Rs.260-350 or 260-400 in the pre-revised phase. All these categories, including Carpenter and/or Carpenter Gr.I, were clubbed and merged into one common category as a part of the exercise to reduce their number and to rationalise pay structures.

— T. S. —

F. The R.B.Shaw Committee, whose recommendations formed the basis of the above exercise, itself refers in its report to two distinct Groups, - Carpenters Grade II; and 'Carpenters, that is Carpenters Grade-I.'

G. No official, irrespective of the category to which he belonged, in the pre-revised 260-350 has at all been given anything higher than Rs.950-1500/-, contrary to the bland assertion of the applicant.

7. The Respondents have projected a cogent and convincing case based on several elucidatory reasons and supported by documentary proof on some points, where such proof was necessary. I do not find any flaw in the arguments or reasons advanced by them. The whole basis of the applicant's claim rests on an erroneous belief that as Carpenter, Grade-I, he was entitled to the scale of Rs.380-560/-. It has been established by the opposite parties that this particular scale was meant for Senior Carpenter and not for Carpenter, Grade-I. The respondents have further succeeded in establishing the correctness of their action by stating that the post of Carpenter Grade-I was always in the scale of Rs.260-350. One cause of confusion appears to be the imprecise and vague usage of the expressions 'Carpenter', 'Carpenter, Grade-I' in various contexts and different documents before the restructuring exercise took place. A number of other similar trades were clubbed together and given a common category and brought under a common scale and none of them has been given any scale higher than what has been given to the applicant either before or after the revision of pay-scales consequent on the acceptance and implementation of the

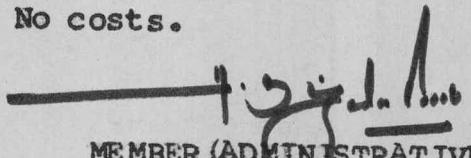
—
15/1

recommendation of the Fourth Pay Commission. Even though the applicant has asserted in Para-5(v) that some similarly placed employees were given a higher scale, he has not substantiated this by specific instances or details. The Respondents deny this altogether.

8. In the light of the preceding analysis and discussion, I am of opinion that there is no merit in the basic contention of the applicant. I also find that the Respondents have not been in any way unfair to the applicant in the matter of applicant's fitment in post-revision pay-scales.

9. The application is, therefore, disallowed as being devoid of merit. No costs.

VICKY H


MEMBER (ADMINISTRATIVE)

06 Jun 94

Central Administrative Tribunal JUL
Cuttack Bench Cuttack
dated the 6th July 1994/ B.K. Sahoo