

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA No.568/96

7-8-2001

Present : Hon'ble Mr.D. Purkayastha, Member (J)
Hon'ble Mr.V.K.Majotra, Member(A)

Kumud Ranjan Bhowmik

-Vs-

Min.of Health and F.W.

For the applicant : Mr.P.K.Munsi

For the respondent : Mr.M.S.Banerjee

ORDER

Mr.V.K.Majotra, Member(A) :

The applicant has challenged the respondents inaction in the stepping up his pay in relation to his junior Shri R.M.Bhattacharjee in terms of Office Memorandum dated 1-12-94, Annexure-G relating to grant of special pay of Rs35/- to UDCs in non-Secretariat Administrative Offices. He has stated that though he had made representation on 14-3-95 and 27-10-95, the respondents did not grant him the solicited benefit. The applicant joined the respondent on 23-4-1957 as LDC. He was promoted to the post of UDC/Auditor on 15-7-69. The post of Auditor was redesignated as Accountant/Jr.Accountant and he was further promoted as Sr.Accountant with effect from 1-4-87 and ultimately the applicant was superannuated on 31-10-95. While working as Jr.Accountant, the applicant was granted Special Pay of Rs35/- p.m. for the period from 1-12-80 to 19-1-81 for performing complex nature of duties involving deep study in terms of Office Order No.56 dated 1-8-93 (Annexure A). The applicant claimed that his pay was not stepped up equivalent to that of his junior Shri R.M.Bhattacharjee with effect from 1-1-86 in terms of Annexure 'G' dated 1-12-94. He has sought the requisite stepping up of his pay with consequential benefit.

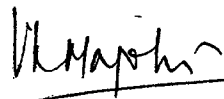
2. The respondents have stated that whereas the applicant was appointed as UDC/Accountant on 11-2-70, Shri R.M.Bhattacharjee

was appointed as UDC in AG/Assam in Shillong on 10-3-58. Even though Shri R.M.Bhattacharjee came on voluntary transfer from Shillong to AG, West Bengal it does not mean that he had become junior to the applicant for the purposes of grant of Special Pay of Rs35/- per month to UDC in the non-Secretariat Administrative Offices. The respondents have further stated that the applicant was not considered suitable for grant of Rs35/- beyond 1981 on the basis of his record. Thus he cannot be given the benefit of any special pay of Rs35/- per month for the purposes of fixation of pay on 1-1-86, nor can ~~he~~^{he} get the benefit of stepping up of his pay on the basis that Shri Bhattacharjee was drawing higher pay on the basis of Special Pay of Rs35/- per month granted to him.

3. We have heard the learned counsel of both sides and perused the materials on record. The learned counsel of the applicant has stated that whereas the respondents have stated in their Annexure R1 dated 10-11-96 that adverse remarks appearing in the Confidential Report was the main base on the basis of which the special pay sanctioned to him for a short period was withdrawn. The learned counsel of the applicant stated that the applicant had made representation against the adverse remarks on 29-7-81 relating to the adverse remarks 'should exert himself more to be prompt' in his ACRs for the year ending 1980. The respondents did not decide his representation. On the other hand the learned counsel of the respondents stated that the matter relating to non-expunction of adverse remarks for the year 1980 cannot be raised before this Court at the belated stage. We are agreeable with the learned counsel of the respondents that the objection relating to non-expunction of the adverse remarks and non-disposal of the representation made in July 1981 ~~linking~~^{against} the adverse remarks cannot be entertained in the present petition ~~at~~^{as} this is inordinately ~~in~~ late stage. When the applicant was aggrieved with this he should have raised this issue before the Court at the appropriate time. The second ground made by the learned counsel of the applicant is that vide Annexure 'G' dated 1-12-94 applicant's pay has to be

stepped up 'on promotion of senior UDCs not in receipt of this special pay equal to the pay fixed on promotion of junior UDC in receipt of this special pay'. The applicant's learned counsel stated that since applicant's junior had been granted the benefit of special pay and fixation of pay on the basis of his special pay, the applicant being senior UDC to Shri R.M.Bhattacharjee should get the benefit of stepping up of his pay on promotion. The learned counsel of the respondents brought to our notice various conditions laid in Memorandum dated 1-12-94. One such condition is that 'stepping up of pay will also not be allowed where an employee even though senior was not found suitable for appointment to the identified post'. In the present case, we have already held above that although Shri Bhattacharjee had been shown in Gradation List (Annexure 'E') as junior to the applicant having come on voluntary transfer to West Bengal and placed at the bottom of the seniority list, for the present purpose he cannot be considered junior to the applicant. We are also agreeable with the learned counsel of the respondent that as the applicant has not been accorded special pay of Rs35/- per month in view of the adverse remarks in his ACRs for the year 1980, he cannot be given the benefit of stepping up of his pay on promotion on his claimed seniority vis-a-vis Shri Bhattacharjee.

4. Having regard to facts and circumstances of the case and reasons recorded above, we do not find any merit in the present Case which is dismissed accordingly. No costs.


(V.K.Majotra)
Member(A)


(D.Purkayastha)
Member(J)