

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.75/2012

Jodhpur, this the 12th day of November, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Chhawar Lal Bhati s/o Shri Nathu Lal Bhati, aged 61 years, resident of Magra Punjala, Bhatiyon Ka Bas, Mandore, Jodhpur, retired Driller Cum Mechanic (DCM), Central Ground Water Board, Jodhpur

.....Applicant
Mr. Manoj Bhandari, counsel for applicant

Vs.

1. The Union of India through the Secretary, Ministry of Water Resources, Central Ground Water Board, Shram Shakti Bhawan, New Delhi.
2. The Director (Admn.) Central Ground Water Board, Government of India N-II-IV, Faridabad (Haryana).
3. The Pay and Accounts Officer, Central Ground Water Board, NH-IV, Faridabad (Haryana).
4. The Executive Engineer, Central Ground Water Board, Government of India, C-8, Saraswati Nagar, Pali Road, Basni 1st Phase, Jodhpur (Raj.)
5. The Regional Director, Central Ground Water Board, CA, Jhalana Dungari, Jaipur

... Respondents

Ms. Monika Tak, proxy counsel for Ms. K. Parveen, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

In the present OA, the applicant has challenged the order dated 27.1.2012 (Ann. A/1) by which in super session of previous pay

fixation order, the pay of the applicant has been re-fixed w.e.f. 1.1.2006 and therefore, he has prayed for the following reliefs :-

- i) by an appropriate order or direction, the order impugned dated 27.01.2012 (Annexure-A/1) passed by Executive Engineer, Central Ground Water Board, Jodhpur may kindly be declared illegal and be quashed and set aside.
- ii) by an appropriate order or direction, the respondents be directed to re-fix the pay of the applicant with the grade pay of 4200 in the pay scale of Rs. 9300-34800 w.e.f. 01.01.2006 as was conferred upon him vide communication and order dated 06.06.2011 with all consequential benefits;
- iii) by an appropriate order or direction, the respondents be directed to make the payment of arrears of salary w.e.f. 01.01.2006 consequent to the order dated 06.06.2011 and so also the arrears of the fixation made on conferment of 3rd MACP to the applicant w.e.f. 01.06.2006 as his pay was re-fixed with the grade pay of Rs. 4600 vide order dated 16.11.2011;
- iv) by an appropriate order or direction, the applicant may be paid the all arrears with interest @ 18 % per annum from the date the same had become due till the date of payment;
- v) by an appropriate order or direction, the respondents be directed to make all the retiral benefits with all consequential benefits.
- iv) any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. Brief facts, as stated by the applicant, are that he was initially appointed on ad-hoc basis as Helper on fixed pay of Rs. 70/- per month w.e.f. 1.9.1972 and thereafter regularized on the post of Work-charged Helper in the scale of Rs. 196-232 w.e.f. 1.9.1981. He was given in-situ promotion in the pay scale of Rs. 1200-1800 vide order dated 23.3.1993 and thereafter promoted as Assistant Driller cum Mechanic keeping him in the same pay scale of Rs.4000-6000 vide order dated 4.5.2000. Benefit of second ACP was given to him w.e.f.

9.8.1999 and he was fixed in the scale of Rs. 4500-7000 vide order dated 8.12.1999. The applicant was further promoted as Driller Cum Mechanic vide order dated 17.11.2009 and was fixed in the pay band of Rs. 5200-20200 with grade pay of Rs. 2800.

Consequent upon amendment in revised pay rules of 2008 relating to workshop staff and artisans and upon approval of the competent authority, the benefit of upgradation of pay scale was conferred upon the applicant from the scale of Rs. 4500-7000 to Rs. 5000-8000 w.e.f. 1.1.2006 and his grade pay was enhanced from Rs. 2800 to Rs. 4200. Consequently, order of fixation was made on 5.7.2010. This order was modified whereby grade pay of Rs. 4200 was made effective from 1.1.2006. The applicant had attained the age of superannuation on 31.5.2011 and at that time his grade pay was Rs. 4200 as is evident from the PPO dated 8.6.2011, but subsequently vide order dated 27.1.2012 (Ann.A/1) without giving any notice or opportunity of hearing to the applicant, the grade pay of the applicant has been reduced to Rs. 2800 w.e.f. 1.1.2006 and the same has been given retrospective effect w.e.f. 1.1.2006. Therefore, aggrieved with the action of the respondents, the applicant has filed the present OA praying for the reliefs as mentioned in para-1 above.

3. The respondent-department by way of filing reply have denied the right of the applicant and submitted that action of the respondents in reducing grade pay of the applicant to Rs. 2800 w.e.f. 1.1.2006 is perfectly just and proper being in accordance with the rules and regulations on the subject and the applicant has failed to point out any

violation of the rules or mandate. Therefore, the OA deserves to be dismissed.

4. The applicant has also filed rejoinder to the reply filed by the respondents reiterating the submission made in the OA.

5. Heard both the parties and perused the material available on record.

6. Counsel for the applicant contended that the respondent-department reduced the salary of the applicant without giving him any opportunity of hearing or giving him proper notice, thus, the order of the respondent-department is violative of the principles of natural justice. He further contended that had he been provided the opportunity of hearing, he would have been in a position to put all the relevant facts before the respondent-department but behind the back of the applicant, the order Ann.A/1 has been passed.

7. Counsel for the respondents failed to controvert this position and there is no evidence on record showing that respondent-department has ever issued any notice prior to issuing order Ann.A/1. Accordingly, order dated 27.1.2012 (Ann.A/1) is *prima-facie* illegal being passed in violation of principles of natural justice and the same is hereby quashed. The applicant is directed to file a detailed representation to the respondent-department and the respondent-department shall decide the representation within four months from the date of receipt of such representation by a reasoned and speaking

order. Further, if representation of the applicant is decided against the interest of the applicant and any recovery is ordered, the applicant may be allowed one month's time before affecting such recovery.

8. The OA stands disposed of in the above terms with no order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

R/