

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
O.A. No. 05/06

Lucknow this the 04th day of Sep., 2006

Hon. Mr. Justice Khem Karan, Vice Chairman

R.D. Arya, aged about 65 years, retired from the post of Regional Director, National Savings Organization, Govt. of India, Allahabad, permanently resident of House No. 554/725, Bhim Nagar, Alambagh, Lucknow.

Applicant.

By Advocate Shri R.S. Gupta.

Vs.

1. Union of India through the Secretary, Ministry of Finance, Govt. of India, New Delhi.
2. The National Savings Commissioner, now Director, National Savings Institute, Seminary Hills, Nagpur.

Respondents.

By advocate Shri Sunil Sharma.

Order

By Hon. Mr. Justice Khem Karan, Vice Chairman

1. In this O.A. it is prayed that the order dated 21.4.05 (Annexure-1) be quashed and the respondents be asked to pay to the applicant Rs. 8210/- as arrears of increment with a further direction to the respondents, to draw increment w.e.f. 1.3.89 and pay arrears of salary, retiral dues accordingly together with interest @ 24%.

2. While serving as District Savings Officer, Bareilly, the applicant was promoted on ad-hoc basis to the post of Deputy Regional Director w.e.f. 11.1.88 and he worked as such till 29.4.88. Thereafter, he came back to his original post of District Savings Officer. It was on 7.7.88 again that he was promoted to the post of Deputy Regional Director. He says that his pay in the promotional grade was fixed at the same stage on both the occasions, one on 11.1.88 and second on 7.7.88 and so in view of rule 26(b) of Fundamental Rules, increment would fall on 1.3.89 and not on 1.7.88. Reference to audit note No. A-2 dated 3.7.2000 has also been made where the Audit has stated that previous period from 11.1.88 to 29.4.88 would be taken into account for purposes of reckoning the period of one year for purposes of increment. The applicant filed one O.A. No. 363/04 claiming the benefit of increment from 1.3.89 in terms of F.R. 26(a). That O.A. was finally disposed of vide order dated 7.1.05 (A-6) with a direction to the respondents to pass appropriate orders, in the light of audit note.



Authorities have passed order dated 21.4.05 (Annexure-1) in compliance of those orders dated 7.1.05 of this Tribunal. According to them, the audit note is erroneous and the date of increment will not shift to 1.3.89, as the applicant had reverted back to his original post after 25.4.88.

3. The respondents have filed reply contesting the claim of the applicant.

4. I have heard Shri R.S. Gupta appearing for the applicant and Shri Sunil Sharma for respondents. The question for consideration is as to whether in the circumstances, the increment in the promoted time scale of Dy. Regional Director, would shift to 1.3.89 as alleged by the applicant and supported by audit note or would become due on 1.7.89 as contended by the respondents.

5. Rule 26(a) of the FRs provides the condition on which service counts for increments in a time scale. Clarifications, including one contained in letter dated 9.3.2000 No. 6-5/98/PA/IC/KW/616 to 652, issued by Ministry of Communications, Department of Posts, Postal Account Wing, Dak Bhawan, of Govt. of India (issued with the approval of D.O.P.T. vide their letter No. 141/2000 Estt. Pay I dated 29.2.2000 with the concurrence of Integrated Finance Advice vide their letter No. 135/F.A./2000 dated 8.3.2000) makes it clear that benefit of broken periods of officiation is admissible if on re-promotion the pay is fixed at the same stage as fixed at the last officiation period and if on re-promotion it is fixed at a higher stage, the benefit of previous officiation periods will not be admissible. The Tribunal has reason to believe this position, as clarified by the letter dated 9.3.2000, will equally be applicable to employees of all other departments of the Central Government governed by the Fundamental Rules.

6. So, the stand of the applicant and also by audit section in its note, is well founded. The respondents were not justified to ignore the audit note and to reject the claim of the applicant, as it is not disputed that the stage at which the pay of the applicant was fixed on 11.1.88, was the same when his pay was fixed on re-promotion on 7.7.88. The date of increment would, therefore, shift to 1.3.89 as claimed by the applicant.

7. It appears that the applicant drew that amount as if the date of increment was on 1.3.89 but on objection by the respondents, he deposited back that amount. In view of what I have found above, he was entitled to that amount.

8. But I am not convinced on the point that the applicant is entitled to any interest, as there was a bonafide dispute.

9. So, the impugned order dated 21.4.2005 (A-1) is quashed and the respondents are directed to pay to the applicant, amount of Rs. 8210/-, as arrears of increment, within a period of two months from the date a certified copy of this order is produced before them and also to ensure consequential payment of salary and ^{retiral} ~~retiral~~ benefits accordingly within a period of four months from the said date. Prayer for interest is refused. No order as to costs. O.A. stands disposed of accordingly.

1. Muran
08.9.06
Vice Chairman.

s.a.