

CENTRAL ADMINISTRATIVE TRIBUNAL

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LUCKNOW BENCH

LUCKNOW

Original Application No. 259/90

Y.S.Meshram

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

In this case the applicant has prayed for many reliefs but instead of dismissing the application on this ground, we are deciding the application in respect of relief No. 1, by which the applicant has prayed to direct the respondents to fix the applicant's basic pay at Rs 1560/- per month/ on 1.2.88 and be allowed all the consequential benefits.

2. The applicant, in para 4.1 of the application stated that the present application being filed against erroneous fixation of the basic pay of the applicant at Rs 1470/- p.m. in the revised pay scale of Rs 1200-2040 vide Part II order dated 16.7.89, instead of Rs 1560/- p.m. as was being drawn by the applicant on his previous posting at Faizabad, before joining at S.H.O., Lucknow on transfer w.e.f. 1.2.88. The applicant was serving as Health Superintendent in the office of the S.H.O. Faizabad and his basic pay was Rs 1560/- p.m. in the scale of Rs 1400-2300. and

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on his own request, he was transferred to SHO Lucknow with effect from 1.2.88 and as there was no post of Health-Superintendent vacant at Lucknow the applicant agreed to be transferred on the lower post of Health Inspector in the scale of 1200-2040. The applicant's basic pay was fixed as Rs 1470 on 1.2.88 in the pay scale of 1200-2040, in pursuance thereof a D.O. was issued on 16.7.89 and according to the applicant this fixation was not correct as he is entitled to the basic pay of Rs 1560 per month as on 1.1.88 at which he was drawing his salary upto 31.1.88. The applicant represented against the same and reminders were also sent but no reply was given and that is why he approached the Tribunal.

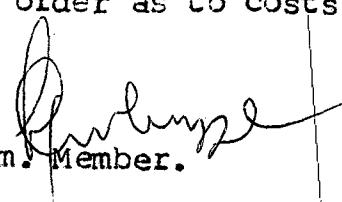
3. The respondents have stated that the applicant reported to the unit on permanent duty as Health Inspector on 1.2.1988 and was posted on compassionate ground on reversion from the post of Health Superintendent on his own request and accordingly necessary documents were forwarded to C.D.A. Lucknow for pay fixation with effect from 1.2.88 at Rs 1470/- with due increments. As this decision was not accepted by the applicant, he approached the C.D.A. for review of the case vide his letter dated 16.5.88 who rejected the application and this decision was communicated to the applicant vide letter dated 29.6.89. It is not necessary to make reference to the adverse remarks or departmental enquiry initiated against the applicant in respect of acts of omission and commission.

on his behalf. The respondents have pointed out that the Controller of Defence Accounts, Lucknow fixed the pay of the applicant in accordance with the provisions contained in Clause A-III of F.R. 23(1) which states that when a government servant is appointed to a lower post at his own request under F.R. 15(a) and if the maximum pay in the time scale of the new post is lower than the pay drawn by the government servant in the old post by him on regular basis, his initial pay in the new post will be fixed at the maximum of the pay scale of that post. The maximum pay in the time scale of the new post of Health Inspector which the applicant agreed to accept worked out to Rs 1470/- which is lower than the pay of Rs 1560/- drawn by him as a Health Superintendent, but as per the provisions referred to above the applicants' pay was fixed in the pay scale of Health Inspector i.e. Rs 1200-2040. According to the applicant the maximum of scale of pay of Health Inspector is not Rs 1470 but it is Rs 2040 which is evident from the pay scale itself i.e. Rs 1200-2040.

4. From the record including the Annexure -5 it is evident that the respondents themselves fixed the pay of the applicant even then the final fixation of pay of the applicant has been lowered down and yet a decision has been taken by the respondents which is not in conformity with the F.R. 22-A. Accordingly, this application deserves to be allowed in part and the order

dated 16.7.89 fixing the salary of the applicant at Rs 1470/- is quashed and the respondent are directed to fix the correct salary of the applicant as per rules within one month of the receipt of a copy of this order by them and arrears be paid within another one month.

No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 5.1.93.