

**CENTRAL ADMINISTRITIVE TRIBUNAL
LUCKNOW BENCH**

O.A.No.590/2005

This the 1st day of December 2006

**HON'BLE SHRI A.K. SINGH, MEMBER (A)
HON'BLE SHRI M. KANTHAIAH, MEMBER (J)**

P.K. Srivastava, aged about 42 years, son of Sri T.P. Srivastava, Resident of B-71/1, R.D.S.O. Colony, Manak Nagar, Lucknow.

... Applicant.

By Advocate:-Shri N.C. Srivastava.

Versus

1. Director General , Research Design and Standard Organization, Manak Nagar, Lucknow.

... Respondents.

By Advocate:-Shri S. Verma.

ORDER

BY M. KANTHAIAH, MEMBER (J)

The applicant has filed the Original Application claiming the difference of salary of Senior Section Engineer and Section Engineer for the period 1.8.1997 to 23.10.2003 and also questioned the impugned order dt. 22.1.2001 (Annexure-1) whereby respondents denied his claim..

2. The respondents filed C.A. denying the claim of the applicant.
3. Heard both sides.
4. The point for consideration is whether the applicant is entitled for the relief as prayed for.
5. The admitted facts of the case that the applicant while working as Section Engineer, filed OA. 332.1997 on the file this Tribunal, for denial of his promotion to the vacant post of Senior Section officer and the same was allowed on 17.09.2003 (Annexure-2) with

operative portion as follows:

"in view of the above, we are of the view that action of the respondent authority oromoting Shri Shyam Lal who belonged to SC categor liable to be set-aside with immediate effect in view of th latest decision of the Hon'ble Supreme Court and the respondents authorities are directed to promote the applicant to that post w.e.f. 01.08.1997 with all consequential benefits within a period of one months fro the date of receipt of the copy of this order."

6. Against the said order Shri Shyam La who was 3rd Respondent in the said O.A. preferred Writ Petition before the Hon'ble Hiah Court of Lucknow and the same is pending. It is also not in dispute that in compliance of the order of the Tribunal dated 17.09.2003, the respondents promoted the applicant to the post of Senior Section Enaineer w.e.f. 1.8.1997. Thereafter, the applicant made representation to the respondents claiming difference of salary as Section Enaineer from the date of promotion and finally moved Contempt petition C.C.P. 75/2004 Stating that the respondents did not give consequential benefits to him inspite of specific order of the Tribunal. But after hearing both sides, the said C.C.P.75/2004 was dismissed Stating that no case of contempt of court was made out and giving liberty to the applicant to seek legal remedy on original side. Annexure-6 is the order in C.C.P.75.2004 dated 15.3.2005. Thereafter the applicant has field this application on original side Stating that he is entitled for consequential benefits form the date of promotion w.e.f. 1.8.1997 .

7. The main arguments of the respondents is that the applicant without discharging his duties and responsibilities on the post of Senior Section Enaineer, he is not entitled for the difference of salary of the said post from 1.8.1997 to 23.10.2003. Admittedly as per the orders of the Tribunal in O.A. 332 of 1997, the respondents have promoted the applicant to the post of Senior Section Engineer w.e.f.



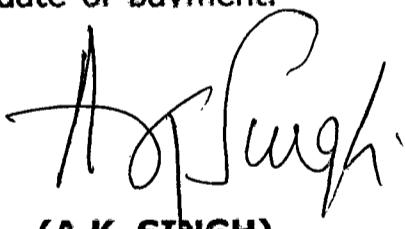
1.8.1997 and also reverted R-3 Shri Shyam Lal who was working in that post on promotion. Admittedly, the tribunal also gave clear finding and direction in its order dated 17.9.2003 that the applicant is entitled for the said promotion post w.e.f. 1.8.1997 with all consequential benefits.

8. When there was such a finding from the tribunal, it is not open to the respondents to dispute the claim of the applicant for difference of salary of the post of Senior Section Engineer from 1.8.1997 on the ground that he did not discharge duties in the said post. As such, the applicant is justified in claiming the difference of salary of the post of Senior Section Engineer from the date of such promotion from 1.8.1997 and the objections of the respondent is not at all sustainable.

9. In the result the impugned order (Annexure-2) is set-aside, directing the respondent to make payment of difference of salary for the post of Senior Section Engineer for the period 1.8.1997 to 23.10.2003 as directed by the tribunal in its earlier order in OA. 332/1997 with interest at 9% per annum till the date of payment.

No costs.


(M. KANTHAIAH)
MEMBER (J) 11-12-06


(A.K. SINGH)
MEMBER (A)