

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 560/2005

This the 24th day of August, 2008

**HON'BLE MR. M. KANTHAIAH, MEMBER (JUDICIAL)
HON'BLE DR. A. K. MISHRA MEMBER (ADMINISTRATIVE)**

Krishna Chandra Seth, aged about 63 years S/o Late Bajinath Prasad Seth,
R/o 3/258, Vishwas Khand, Gomti Nagar, Lucknow.

Applicant.

By Advocate: Sri S.K. Sharma.

Versus

1. The Comptroller and Auditor General of India, Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (Accounts and Entitlement)-II Uttar Pradesh, Allahabad.
3. The Executive Engineer, Minor Irrigation Division Chandra Lok, Aliganj, Lucknow.

Respondents.

By Advocate: Sri Deepak Shukla for Sri Prashant Kumar.

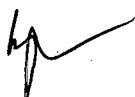
Order

By Hon'ble Dr. A. K. Mishra, Member (Administrative):

The applicant seeks a direction to the respondents for re-fixation of his pay after efficiency bar was allowed to be crossed by the competent authority in then prevailing pay scale of Rs. 500-EB-15-560-20-640.

2. The brief facts of the case are as follows: -

The applicant, when he was working in Divisional Accountant Ordinary Grade, was required to cross the efficiency bar w.e.f. 21.09.1974. However, on the ground of unfitness, he was not allowed to cross efficiency- bar until 01.04.1981, when by an order dated 16.4.85 of the competent authority, his pay was allowed to be raised from Rs. 500 to Rs. 515 w.e.f. 01.04.81. The




applicant made a representation, which was considered by the competent authority and on a review, he was allowed to cross the efficiency-bar from the point of view of fitness w.e.f. 01.06.1977 and his pay was raised to the next higher level of Rs. 515/- w.e.f. this date. The applicant is not questioning belated crossing of efficiency -bar on the ground of fitness from efficiency point of view, but his request is that it should have been fixed at Rs. 560/- by notionally granting him annual increments from 01.06.1974 when the efficiency-bar crossing fell due.

3. He is relying on the provisions of Fundamental Rules 24 to 26 of Government of India. The relevant portions of these Rules dealing with fixation of pay where an employee is allowed to cross the efficiency- bar at a belated stage is extracted below:-

"Where a Government servant held up at the E.B. stage on account of unfitness is allowed to cross the E.B. at a later date as a result of subsequent review, his pay shall normally be fixed at the stage immediately above the E.B. In case the competent authority proposes to fix his pay at a higher stage by taking into account the length of service from the due date of E.B., the case should be referred to the next higher authority for a decision."

4. He made a number of representations including one to the Accountant General (Accounts and Entitlement-II), U.P. Allahabad. He has got identical replies from the authorities stating that the fixation of pay after crossing the efficiency -bar in his case has been correctly done as per rules and prevailing government instructions in the matter. The respondents have also taken a similar plea. It says that the impugned order dated 26.4.1993 has been correctly passed as per the provisions of Paragraph 10.6.5 of the Manual of Standing Orders (Admn.) Vol. I, which govern the case of fixation of pay of a government servant who is allowed to cross the efficiency bar at a later stage. It was submitted that an employee is not allowed to cross the efficiency bar if he is not found fit on efficiency considerations. Our attention is also drawn to recommendation of the Third Central Pay Commission in regard to crossing

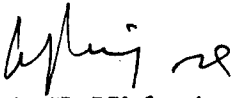


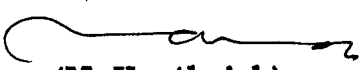
of efficiency-bar. In their recommendation No. 37 of their report, it has been observed that:

"There should be a more effective application of efficiency bars than has been done hitherto. Measures should be taken to ensure that crossing the efficiency bar is no longer a routine matter and that those who do not pull their weight are denied further increments."

5. The short point is whether the pay should have been fixed at Rs.560/- taking into account, the full period of 4 years, which passed from the time when E.B. became due and when the applicant was allowed to cross in on 1.6.1977. The rules are very clear. It says that his pay has to be normally fixed at the stage immediately above the E.B. when on a later date as a result of subsequent review he is allowed to cross the E.B. But in case, the competent authority, proposes to fix his pay at a higher stage by taking into account the length of service from the due date of E.B., the case should be referred to the next higher authority for a decision. In this case, there was no such proposal by the competent authority. As a matter of fact, the applicant, on a review, was allowed to cross it from 1.06.77 although, the original order was from 1.6.81. The competent authority had not thought it proper to give him the benefit of fixation of pay at higher stage by referring the matter to the higher authority. There has not been any infraction of rule in this case. There was no inherent right of the applicant for fixation of his pay at Rs. 560/- w.e.f. 1.6.1997 as is being claimed in this application.

6. As a result, we do not see any merit in this application, which is accordingly dismissed. No costs.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)
26.08.08