

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

REGISTRATION NO. O.A. 402 of 1996

DATE OF ORDER : 15.01.2001

Nandji Tripathi, s/o late Barhmeshwar Nath Tripathi, resident of village and P.O. Balauti, District - Bhojpur, at present posted as Professional Assistant, Middle Ganga Division No. 5, Central Water Commission, Baijnath Bhawan, Vivekanand Path, Shri Krishna Puri, Patna - 13.

..... Applicant.

By Advocate Shri N.C. Verma.

Versus

1. The Union of India through Chairman, Central Water Commission, Seva Bhawan, R.K. Puram, New Delhi.
2. The Under Secretary Establishment - 11, Central Water Commission, Seva Bhawan, R.K. Puram, New Delhi.
3. The Executive Engineer, Middle Ganga Division -5, Central Water Commission, Baijnath Bhawan, Vivekanand Path, S.K. Puri, Patna - 13.

.....RESPONDENTS.

By Advocate Shri G.K. Agarwal, Addl. Standing Counsel

C O R A M

Hon'ble Mr. Lakshman Jha, Member (J)

Hon'ble Mr. L. Hmingliana, Member (A)

O R D E R

L. Hmingliana, Member (A):-

The applicant was promoted from the post of Senior Computer to that of Professional Assistant with effect from 19.1.1987 under the Central Water Commission, and his pay as Professional Assistant



was fixed by the Executive Engineer, Middle Ganga  
under whom he was working  
Division No. V vide order dated 25.11.1989, giving  
him the benefit of pay fixation under the then  
Rule 22~~C~~ of the FR & SR, but the order was  
superceded by a subsequent order dated 8.3.1996,  
which had the effect of reducing his pay. His  
application is for quashing the order of revised  
fixation of his pay, and for restoration of his  
earlier pay fixation.

2. The applicant is relying upon the order  
of the Tribunal dated 11.1.1990 passed in OA 145/89  
filed by another Professional Assistant for fixation  
of his pay under FR 22~~C~~. The order of the Tribunal  
was that on promotion to the post of Professional  
Assistant, the pay of the applicant therein should  
be fixed in terms of FR 22~~C~~. The Tribunal took  
into consideration the order of the Principal Bench  
in B.D. Verma vs. U.O.I. & Ors, which was followed  
by the same Bench in R.L. Khare vs. U.O.I. Since  
then, the FR 22~~C~~ has since been deleted and  
incorporated in the FR -22, which under sub-Rule  
(I) (a) (1) provides that the pay of ~~a~~ government  
servant who is appointed to another post carrying  
duties and responsibilities of greater importance  
than those in his earlier post shall be fixed at the  
stage next above the notional pay arrived at by

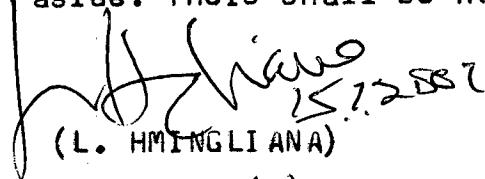
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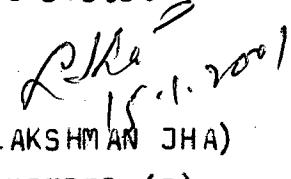
increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty five only, whichever is more". From the previous pay fixation order dated 25.11.1989 at Annexure- 2, it can be seen that the pay of the applicant in the pay scale of Rs. 1400-40-1800-EB-50-2300/- was Rs. 1760/- on 1.11.1986, and that was raised to 1850 on 19.1.1987, which was in accordance with the provisions of Sub-Rule (I) (a) (1). The two posts of Senior Computers and Professional Assistants were in the same pay scale of Rs. 1400-2300/- . It appears that the maximum of the pay scale of Professional Assistants was raised to 2600/- subsequently. Now the question for determination would be whether the responsibilities of the post of Professional Assistants were higher than those of Senior Computers. The respondents have not explained that satisfactorily in their written statement. In fact, the reply given by the respondents in their written statement regarding the order of the Tribunal in DA 145/89 is merely that the ratio desendendi of the said case is not applicable to the present matter, which obviously cannot be accepted. Then, the application must succeed. The operation of the impugned order has been stayed by the Tribunal by



order dated 9.9.1996.

3. The application is allowed. The impugned order dated 8.3.1996 is hereby quashed and set aside. There shall be no order as to costs.

  
(L. HMINGLIANA)  
MEMBER (A)

  
(LAKSHMAN JHA)  
MEMBER (J)

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