

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

REGISTRATION NO. O.A. 402 of 1996

DATE OF ORDER : 25.01.2001

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

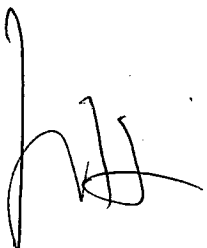
L. Hmingliana, Member (A):-

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 Division No. V ^{under whom he was working} vide order dated 25.11.1989, giving him the benefit of pay fixation under the then Rule 22C of the FR & SR, but the order was superceded by a subsequent order dated 8.3.1996, which had the effect of reducing his pay.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.

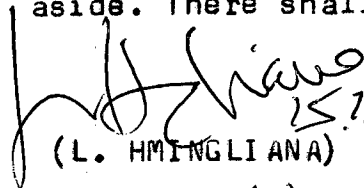
2. The applicant is relying upon the order of the Tribunal dated 11.1.1990 passed in OA 145/89 filed by another Professional Assistant for fixation of his pay under FR 22C. The order of the Tribunal was that on promotion to the post of Professional Assistant, the pay of the applicant therein should be fixed in terms of FR 22C. 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 22C 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

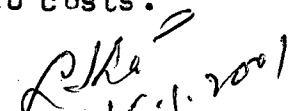
increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty five only, whichever is more." From the previous pay fixation order dated 25.11.1989 at Annexure- 2, it can be seen that the pay of the applicant in the pay 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 OA 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)

/CBS/