

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 316/87

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198

DATE OF DECISION 25.3.1991

Mr. Vasant Pandharinath Ayachit Petitioner

S.R. Atre Advocate for the Petitioner (s)

Versus

Union of India and others Respondent

P.M. Pradhan Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. U.C. SRIVASTAVA, Vice-Chairman,

The Hon'ble Mr. M.Y. PRIOLKAR, M(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
NEW BOMBAY

ORIGINAL APPLICATION NO: 316/87

Mr. Vasant Pandharinath Ayachit
4, Nrusinha Bhuvan,
Ram Maruti Road,
Cross Lane No. I, Naupada,
Thane-400 602.

.... Applicant

Vs.

Union of India
through the Director General,
Department of Posts,
Govt. of India Sanchar Bhavan,
New Delhi, and others.

.... Respondents

CORAM : HON'BLE SHRI U.C. SRIVASTAVA, VICE-CHAIRMAN

HON'BLE MEMBER SHRI M.Y. PRIOLKAR (MEMBER/A)

Appearance :

Mr. S.R. Atre, Adv.
for the applicant

Mr. P.M. Pradhan, Adv.
for the Respondents.

ORAL JUDGMENT

(PER : U.C. SRIVASTAVA, Vice-Chairman)

DATED: 25.3.1991

This application is filed by the applicant under section 19 of the Administrative Tribunal Acts, 1985, praying that the respondents be directed to fix his pay as per redeployment order issued by the respondents and grant his pay as admissible and all the consequential reliefs which are due to him and that the respondents be directed in the alternative to fix the pay of the applicant by stepping up the applicant's pay and bringing it on par with the junior of the applicant Shri C.N. Behare and to grant the arrears of pay to the applicant accordingly and all the consequential reliefs.

DA 316/87

2. The applicant was appointed in the office of respondents as office clerk on 1st December 1948. He was promoted to the post of Inspector in 1959, then Assistant Superintendent of Post Office on 9th August 1969. The applicant states that certain posts, vzi; Higher Selection Grade II came to be introduced in the services of the respondents which were in the pay scale of Rs.335-425 which was revised to Rs.550/750 with effect from 1st of January 1973. The said post of Higher Selection Grade II is lower than Assistant Superintendent of Post Office. By order dated 19th November 1975 the respondents stated that the officials who were working in a pre-revised scale in Higher Selection Grade i.e. H.S.G.1.1.1973 would have been appointed in the Higher Selection Grade II cadre in the revised pay scale of Rs.550-750 on 1.1.1973 and continued therein, but for their postings elsewhere on account of administrative reasons or proceeding on leave, etc, and as such officers mentioned in that memo will be entitled to the revision pay scale of H.S.G.II cadre with effect from 1st January 1973. The said memo also required that the pay of the applicant should be refixed and arrears drawn. The said orders were issued by the Director of Postal Services, who was the appointing authority, But the applicant states that his pay was never revised, and hence his pay was lower than his junior Mr.Behare.

3. By order dated 29th November 1977, the respondents conveyed approval for stepping up the pay of certain officials including the applicant at the stage of Rs.725/- with effect from 19th August 1974 in the scale of Rs.550-25-750-30-900 in the Asstt.Suptd.P.O's cadre on which date their junior Shri C.N.Behare draw the above pay in A.S.P.O's cadre. The applicant was getting the benefits of the revised scale but certain objection ^{were} raised by audit and the pay of Shri C.N.Behare, junior was revised to Rs.700/- on 29th August 1974 in ASPO's cadre. Consequently the pay of the applicant which was

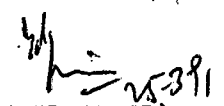
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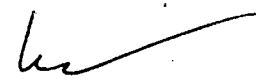
stepped up from 29th August vide orders dated 19th December 1977 was asked to be revised and refixed, as Mr. Behare was wrongly given higher pay scale, and benefits which were granted to the applicant were withdrawn. The applicant's grievance is that his pay has been granted to be stepped up to that of the pay of the said Shri C.N. Behare with effect from 29th August 1974 by respondent's letter dated 29th November 1977 but this benefit was withdrawn subsequently by the respondents stating that the stepping up was incorrect as the pay of Shri C.N. Behare was likely to be revised and the matter was under examination. The respondents are justifying the direction by stating that the Director General of Post, New Delhi, who examined the claims of the applicant decided that the pay of an officer who was officiating in a higher post on 1.1.1973 is to be fixed under Rule 7 of the CCS(RP) Rules, 1973 simultaneously with reference to his pay in old scale as on 31st December 1972. As such, according to the respondents, a review was done and it was found that ^{stepping up of pay of} the applicant was not permissible under re-deployment orders under CCS(RP) Rules, 1973 nor under Fundamental Rules 22-C, as promotions of the applicant to ASPO's cadre was in 1969 whereas his junior Shri Behare was promoted to ASPO's cadre on 29.8.1974 after re-reployment in H.S.G. II on 1.1.1973.

4. Thus, the respondents have taken the plea that the applicant is not entitled to stepping up of pay under the fundamental rules 22(-C) as promotions of the applicant and his junior to Higher Selection Grade were not simultaneous and direct from one cadre. And the redeployment orders do not permit any stepping up of pay of seniors on par with that of juniors.

(13)

5. It appears that the Fundamental Rules 22(C) is earlier to the order dated 29. November 1977 and the plea of the applicant was to taking into consideration in the correct prospective the fact that the applicant who was senior to Mr. Behare would have also been appointed on the Higher Selection Grade II from 1.1.1973 but for administrative reasons. It appears that the decision has been taken without consideration of the relevant aspects. Accordingly we allow the application in part and the Respondents are directed to reconsider the matter of the applicant taking into consideration the total circumstances of Fundamental Rules 22(C) and the order of 29th November 1977 and take appropriate decision on or before the expiry of 3 months from ^{the date of} the receipt of the copy of this order.


(M.Y. PRIOLKAR)
M(A)


(U.C. SRIVASTAVA)
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25.39,
Order/Judgement despatched
to Applicant/Respondent (s)
on 21-5-91

21-5-91

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