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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
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Original Application No. 465/87

B.A. Sabade,
M/22, Yashowarchan,
Lt. Kotnis Road,
Mahim,
Bombay 400 016.

... Applicant

V/s

1. The Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
New Delhi.

2. Secretary, Ministry of
Home Affairs, Department
of Personnel & AR,
New Delhi.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C. Srivastava
Hon'ble Member (A), Shri P.S. Chaudhuri.

Appearances:

Applicant in person
and Mr. R.K. Shetty, Advocate
for the respondents.

JULGEMENT:

Dated : 13.9.1991

{Per. P.S. Chaudhuri, Member (A)}

This application under Section 19 of the Administrative Tribunals Act, 1985 was filed on 14.7.1987. In it the applicant who was working as Pay and Accounts Officer (Textiles), Bombay is seeking stepping up of his pay with effect from 1.3.1977 with interest on arrears.

2. The applicant joined the office of the Accountant General, Bombay on 7.4.1953 as Auditor. He passed the Part-II examination for S.A.S. Accountant held in 1969 and was promoted as S.A.S. Accountant on 20.2.1970. In early 1976 it came to his notice that some of his juniors who had passed the S.A.S. examination in 1975 were drawing more pay than him. He made a representation to the Accountant General, Bombay to step up his pay

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on a par with his juniors. As a result his pay was stepped up by one stage with effect from 29.3.1975. Consequent on the departmentalisation of Accounts, in terms of the Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976 the applicant stood transferred to the Ministry of Labour with effect from 1.10.1976. He represented to the Accountant General, Maharashtra sometime in 1979 that he was still one stage behind his junior in the Accountant General's office. The Accountant General, Maharashtra (I), Bombay conceded the applicant's request and by his order dated 17.7.1980 stepped up ^{applicant's} ~~the~~ pay to Rs.725/- with effect from 1.3.1977. This stepping up was, however, not accepted by the office where the applicant was working and the matter was referred to the Controller of Accounts, Ministry of Labour, New Delhi. Eventually the applicant was informed that as he came to be borne on the strength of the Accounts Establishment under the Ministry of Labour since 1.8.1976 (sic - should be 1.0.1976) his claim for parity in pay with reference to his erstwhile junior in the office of Accountant General, Maharashtra had become infructuous from that date and hence cannot be granted. He made further representations but without success. Being aggrieved he filed the present application.

3. The respondents have opposed the application by filing their written statement. We heard the applicant in person and Mr. R.K.Shetty, learned counsel for the respondents.

4. The refusal of the respondents to accede to the applicant's request is assailed on the grounds ~~that~~ his transfer to the departmentalised accounts cadre

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was not at his request but at the instance of the respondents, that such transfers should not be at the cost of the applicant and there is no provision for the applicant's repatriation to his former office. We have to see how far these grounds can be sustained.

5. The applicant's transfer was in pursuance of an Act of Parliament, namely the Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976 which came into force on 1.3.1976. Section 2 of this Act is relevant for our purpose. Subsection (1) thereof provides that it shall be lawful for the Central Government, on the advice of a Committee established under sub-section (2) thereof, to transfer, by order and with effect from such date as may be specified in the order, to any Ministry or Department of the Central Government or any of its attached or subordinate offices, any of the officers or employees serving in the Indian Audit and Accounts Department, for the purpose of facilitating the efficient discharge by such Ministry, Department or office of the responsibility of compiling such accounts. Sub-section (1) also incorporates a proviso to the effect that no order under this sub-section shall be made in relation to any such officer or employee serving in the Indian Audit and Accounts Department who has, in respect of the proposal made on the advice of the Committee to transfer such officer or employee under this sub-section, intimated, within such time as may be specified in this behalf his unwillingness to be so transferred, unless the Central Government is of opinion that it is necessary in the public interest to transfer such officer or employee as aforesaid. Sub-section (2) thereof empowers the Central Government, by order, to establish one or more

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Advisory Committees consisting of such number of members as it thinks fit for the purpose of assisting it in regard to the transfer of officers and employees under sub-section (1). Sub-section (3) thereof says that an officer or other employee transferred to any Ministry, Department or office of the Central Government by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an officer or employee in the Indian Audit and Accounts Department. By letter dated 17.9.1976 the applicant had been informed that on the advice of the above mentioned Advisory Committee it was proposed to transfer him to the Ministry of Labour and that an order passed on this proposal would be issued unless his unwillingness was intimated in writing. The respondents contend that by this time the applicant was well aware that he had a ^{pending} request for stepping up of pay. It was open to him to ask not to be transferred but he did not do so. It was their further case that he was aware that the statute did not provide for repatriation. It was their further case that the applicant ^{may} stand to gain qua his erstwhile seniors who chose to remain in the Indian Audit and Accounts Department. All these were matters to which the applicant was required to address himself before he made up his mind regarding the proposed transfer and if he chose to accept ^{the} transfer ~~acceptance of~~ the terms and conditions applicable ^{inevitably follow.} We see considerable merit in these submissions of the respondents and have no hesitation in rejecting the applicant's submissions on these points.

6. It is also to be noticed that stepping up of pay is governed by FR 22-C. One of the conditions required to be fulfilled for any stepping up of pay is that both the junior and senior officers should belong

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to the same cadre. Quite obviously, they should belong to the same cadre on the date on which the stepping up is to be given effect to. The stepping up of pay which the applicant is seeking was to be given effect to ^{from} 1.3.1977. By that date the applicant had already left his former cadre and belongs to the Accounts Cadre of the Ministry of Labour. Thus, he is no longer entitled to the benefits under FR 22-C qua his erstwhile juniors in the Indian Audit and Accounts Department.

7. In this view of the matter we see no merit in this application and are of the opinion that it deserves to be dismissed.

8. The application is accordingly dismissed. In the circumstances of the case there will be no order as to costs.



(P.S. Chaudhuri)
Member (A)



(U.C. Srivastava)
Vice-Chairman

13-9-1991