

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 622/88
KXAXXX

199

DATE OF DECISION 13.9.1993

Shri S.K.Bhure

Petitioner

Shri V.V.Vidwans

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri M.G.Bhangade

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice M.S.Deshpande, Vice Chairman

The Hon'ble Mr. Usha Savara, Member (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 ?~~

U. Savara
(USHA SAVARA)
MEMBER (A)

M.S.D
(M.S.DESHPANDE)
VICE CHAIRMAN

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP : NAGPUR

OA.NO. 622/88

Shri Sudhakar Keshao Bhure ... Applicant

v/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Ms. Usha Savara

Appearance

Shri V.V.Vidwans
Advocate
for the Applicant

Shri M.G.Bhangade
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 13.9.1993

(PER: M.S.Deshpande, Vice Chairman)

The applicant was subjected to two departmental enquiries which were initiated on two separate sets of charges and ultimately came to be exonerated. The applicant's case was considered by the D.P.C. and Sealed Cover procedure was followed. The applicant had eventually been promoted from 18.11.1980 as Selection Grade Inspector of Central Excise and as Superintendent, Central Excise (Selection Grade) w.e.f. 15.9.1983. The applicant's contention is that since these promotions have been granted to him, he should have been given his deemed dates and all the arrears should be paid to him from the deemed date. It is, however, apparent from the decision in UNION OF INDIA AND OTHERS vs. K.V.JANKIRAMAN AND OTHERS, (1991) 4 Supreme Court Cases 109 that O.M. dated 30.1.1982 was modified and is as follows :-

"However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the concerned authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so."

2. The learned counsel for the applicant urged that since the department has already taken a decision, it is not necessary to send back the file to the department. The department took the decision when the original clause (iii) of the Memorandum read "but no arrears of pay shall be payable to him for the period of notional promotion preceding the date of actual promotion". The decision was not taken in the light of the modification which was brought about by the decision of the Supreme Court. Obviously, the modification shall be deemed to have been made from the initial date of issue of the Memorandum and the department will have to consider the case in the light of this modification. The authority has to consider the claim of the applicant for arrears in the light of modification in the Memorandum brought about by the Supreme Court decision in K.V.Jankiraman's case. We direct the respondents to consider the applicant's case and decide it within three months from today and if any monetary benefits are to be awarded to the applicant, they should be paid to him within three months from the decision. The OA. is disposed of with these directions.

U. Savara
B. 9. '93
(USHA SAVARA)
MEMBER (A)

M.S. Deshpande
(M.S. DESHPANDE)
VICE CHAIRMAN