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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 406/89

~~XXXXXXXXXXXXXXXXXXXXX:~~

DATE OF DECISION 10.2.94

Shri P.R. Dongre Petitioner

Shri S. Natarajan Advocate for the Petitioners

Versus

Union of India and others. Respondent

Shri A.I. Bhatkar for Advocate for the Respondent(s)
Shri M.I. Sethna.

CORAM:

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

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *no*
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 ? *no*


(M.S. Deshpande)
Vice Chairman.

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 406/89

Shri P.R. Dongre

... Applicant.

V/s.

Controller
Bhabha Atomic Research Centre
Central Complex, Trombay
Bombay.

Head, Personnel Division
Bhabha Atomic Research Centre
Central Complex, Trombay
Bombay.

Union of India through
Secretary, Department of Atomic
Energy, Anusakthi Bhavan,
C.S.M. Marg,
Bombay.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

Appearance:

Shri S. Natarajan, counsel
for the applicant.

Shri A.I. Bhatkar for Shri
M.I. Sethna, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 10.2.94

(Per Shri M.S. Deshpande, Vice Chairman)

By this application the applicant seeks stepping up of his pay so as to bring it on par with his junior Shri Kanoje.

2. The applicant and Shri Kanoje were appointed on 4.9.65 and were drawing Rs. 130/- p.m. in the scale of Rs. 130 - 175. They continued to draw equal pay even after the revision of pay scale by the Third Pay Commission raising the pay scale to 330 - 480; the amount that was being drawn by them was Rs. 362/- on 1.2.73. The applicant was promoted and working as Tradesman, Grade 'D' in the scale of Rs. 380 - 560 and was drawing Rs. 380/- p.m. while Shri Kanoje who continued in the lower scale got Rs. 362/- p.m. On 1.2.74 Shri Kanoje due to increment in the lower post got Rs. 370/- p.m.

On 1.5.74 Kanoje was promoted to the same cadre as the applicant, but his pay was fixed at Rs. 392/- while applicant continued at Rs. 380/-. The applicant's contention is that his pay should have been fixed from 1.5.74 at Rs. 392/- and that he should have been given the same financial benefit of increment and the scale of pay as Kanoje had been getting. The applicant made several representation and ultimately on 14.2.89 the respondents informed the applicant that his case has been re-considered and the request for special pay could not be acceded to for the reasons communicated to him by the letter dated 17.3.86. The relevant portion of the letter reads as follows:

" He is informed that under the Merit Promotion Scheme the pay on promotion of technical staff in BARC has been fixed under FR 22-c. There is no seniority concept involved and staff are recommended for promotion based on their fulfilling the norms. As such comparison of pay of any two employees has no relevance whatsoever. His request for stepping up cannot be acceded to, as this is not covered by the existing orders. . "

" By the letter dated 20.5.85 while dealing with the similar situation the respondents stated that it has been decided that the spirit of DP&AR orders dated September 25, 1982 may be given effect to in case of Group 'A' Scientific Officers promoted prior to the issue of orders dated 5.10.81 where anomaly in respect of pay fixation has arisen. . "

It may be noted that in that letter there was a reference to the stand taken by the respondents that the concept of seniority has no relevance to the merit promotion scheme of the department but it was felt that the anomaly in fixation of pay should be removed on the grounds of equity. If the anomaly was to be removed

in case of Group "A" officers, in respect of whose promotions also the same consideration arose as in the case of the present applicant, I see no merit in the contention that the applicant should not get the benefit of Rule 22(c) as the requirements stipulated under Government of India order 22 vide letter dated 4.2.66 below F.R. 22 (Swamy's Compilation of FR & SR, 11th Edition, 1992, page 68) are fulfilled in this case, The applicant is entitled to stepping up of pay so that it is brought on par with Mr. Kanoje.

3. With regard to the relief, however I find since the cause of action would be a recurring cause of action as there was a deprivation of part of pay from month to month and hence the question of limitation would not arise. The entitlement of applicant, however would be limited to only the difference in the pay for a period of 12 months prior to filing of this application. Notional fixation shall however be made in respect of the applicant from 1.5.74, when Shri Kanoje started getting pay of Rs. 392/- as against Rs. 380/-. It would be on this basis that the applicant's entitlement shall be worked out by the respondents on the basis of earlier pay. This be done within two months from the date of communication of this order. No order as to costs.



(M.S. Deshpande)
Vice Chairman.