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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 173/89
TAXX Nox

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DATE OF DECISION 20.11.1989

Shri S.K.Dev

Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Secretary, M/O Water Resources, New Delhi and others. Respondent(s)

Sh. R.C. Kothiawala (for Mr. M.I. Sethna) Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

W.H.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

DA.NO. 173/89

Shri S.K.Dev
Assistant Research Officer
at Central Water and Power
Station, Pune - 411 024.

... Applicant

vs.

1. The Secretary,
Ministry of Water Resources,
New Delhi.
2. The Secretary,
Dept. of Personnel & Training,
New Delhi.
3. The Secretary,
Ministry of Finance,
Dept. of Expenditure,
New Delhi. ... Respondents

CORAM: Hon'ble Member (A) Shri M.Y.Priolkar

Appearances:

Applicant in person

Mr.R.C.Kotiankar
(for Mr.M.I.Sethna)
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 20.11.1989

(PER: M.Y.Priolkar, Member (A)

The grievance of the applicant in this case is that inspite of representations, his pay has not been stepped up to the level of his juniors who are drawing more pay than him as a result of their exercising the revised option provided in the Ministry of Finance O.M.No. 60/17/IC/78 dated 27.1.1979. The applicant who is an Assistant Research Officer at the Central Water and Power Research Station, Pune claims that he is entitled, on the basis of Finance Ministry's Circular dated 18.7.1974, to the benefit of stepping up of pay since there is a clear anomaly arising from the operation of FR 22-C that the pay of some of his juniors is higher

than his own. The application has been resisted by the respondents by filing their written reply. After hearing today the applicant in person and Mr.R.C.Kotiankar for Mr.M.I.Sethna on behalf of the respondents, I see no merits in this application since one of the essential conditions laid down in para 2(c) of the circular dated 18.7.1974 of the Ministry of Finance, namely, that the anomaly should be directly as a result of the application of the provisions of FR 22-C, is not satisfied in this case.

2. The applicant has filed a statement (Annexure 2 of his application) showing his pay compared to that of his junior Mr.K.B.Krori from time to time since 1.7.1971. Initially, both the applicant and Mr.Krori had exercised the option to draw pay in the revised scale on 1.1.1971 and the pay of both was fixed at the same level, i.e. at Rs.350/- in the scale of Rs.210-425, although the applicant was senior of the two. However, by its order dated 27.1.1979, Government of India gave one more opportunity to all the employees of opting for the revised pay at a stage beneficial to them. In terms of this order while the applicant did not exercise any option as it could not have benefitted him, Mr.Krori exercised the option for fixing the pay w.e.f. 1.7.1975. As a result of this option Mr. Krori's pay was re-fixed in 1979 at Rs.660/- in the revised pay scale of Rs.425-700 w.e.f. 1.7.1975 and at Rs.700/- w.e.f. 7.8.1975, i.e. the date on which he was promoted to the higher post of Senior Research Assistant in the revised pay scale of Rs.550-900. The applicant's pay, however, continued to remain during 1975 at Rs.650/- i.e. the level at which it was fixed on the basis of his promotion to the post of Senior Research Assistant on 18.1.1975.

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3. While no doubt there is, therefore, an anomaly that the applicant, though senior, draws salary at a level lower than that of his junior Mr. Krori, this anomaly has arisen, not as a result of FR 22-C but because of the revised option permitted in Ministry of Finance order dated 27.1.1979. It is to be noted that although the applicant could have also exercised a revised option he did not do so as it was not beneficial to him. Since, as pointed out earlier, one essential condition entitling the senior to have his pay ^{is that the anomaly} stepped up to that of his junior should arise directly as a result of operation of FR 22-C, it must be held that this essential condition is not satisfied in the case of the present applicant. Admittedly, there is no rule that the seniors should always draw higher pay than that of their juniors. If the revised option had not been permitted and pay fixation was done only under FR 22-C as was the position till January 1979, merely as a result of operation of FR 22-C the junior could not have drawn more pay than the applicant. This is evident from the fact that the applicant had no grievance about his pay fixation until January 1979 i.e. when the revised option was given. In view of the clear stipulation laid down in Finance Ministry's order dated 18.7.1974 that one essential condition for stepping up of pay should be that the anomaly should arise directly as a result of operation of FR 22-C and this condition is not satisfied in this case, the application has to be rejected as devoid of any merit. The application is accordingly dismissed but with no order as to costs.



(M.Y. PRIOLKAR)
MEMBER (A)