

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 231/89

199

T.A. NO:

DATE OF DECISION 3.6.92

P.T.RAO

Petitioner

Mr.Natrajan

Advocate for the Petitioners

Versus

The Union of India and ors. Respondent

Mr.P.M.Pradhan.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Ms. USHA SAVARA, MEMBER (A)

The Hon'ble Mr.

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 ?

No

1. Answer.

mbm²

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO.231/89

P.T.RAO
Assistant Accounts Officer
in the office of Fisheries Survey of India
Ministry of Agriculture,
Botawala Chambers, 3rd floor
Sir Phirozsha Mehta road,
Bombay - 400001

....APPLICANT

V/s

1. Director of Audit
Western Railway, 5th floor
Churchgate, Bombay-20

2. Comptroller and Auditor
General of India
10, Bahadur Shah Zafar Marg
New Delhi-110002

3. Union of India through Secretary,
Department of Personnel and Training
Ministry of Personnel, Public
Grievances and Pension, Government
of India, New Delhi 110001

....RESPONDENTS

CORAM : HON'BLE MEMBER MS.USHA SAVARA, MEMBER (A)

Appearance :

Mr. Natrajan, Adv.
for the applicant

Mr.P.M.Pradhan, Sr.Counsel,
for the respondents.

JUDGEMENT

DATED: 3.6.92.

This application has been filed with the
prayer that the pay of the applicant be stepped up
with reference to the pay received by Shri Nag, who is,
admittedly, junior to him. The relief prayed for is that
after excluding the advance increment, the applicants'
pay be stepped up, and then the advance increment be
added to his salary.

(a)

The respondents have vehemently contested the applicant's claim. It was submitted by Shri P. M. Pradhan, the learned counsel for the respondents that the applicant had no case for stepping up of his pay, as he was not drawing less salary than Shri Nag on 1.2.1979. Shri Natrajan, the learned counsel for the applicant had relied upon the fact that three Section Officers mentioned in the application were given stepping up of pay equal to that of Shri Nag; however, it is pointed out by Shri Pradhan that those three Section Officers were actually drawing less pay than Shri Nag, and hence were granted stepping up of pay equal to that of Shri Nag i.e. Rs. 680/- with effect from 8.6.1979. Reference was made to the orders of the C.A.G. in letter No. 2970-NGEI/105-73, dated 11.10.1979 for stepping up of pay of seniors with reference to that of juniors, when the junior gets promoted to the grade of Senior after having been effectively promoted through an intermediary higher grade, through which the senior had not passed and hence ^{the} junior draws more pay. These orders do not cover cases where senior does not draw less pay than that of junior. It was also pointed out by the learned counsel that the applicant had not quoted any rule or order to support his claim that his pay should be stepped up, though his pay is equal to that of his junior. Since there is no anomaly, the relief claimed cannot be granted to the applicant, and the application deserves to be dismissed.

I have heard the learned counsel, and given my earnest consideration to the annexures filed by them. The first condition for stepping up of pay is that the scale of pay of the lower post i.e. ordinary grade, and the higher post in which both juniors and seniors are entitled to draw pay should be identical. The second condition is

that the senior employees should have been eligible for appointment to the selection grade, but for working in the higher post on or before the date on which the junior was appointed to the selection grade. The third condition is that the junior should not have drawn more pay than the senior by virtue of fixation of pay under the normal rules or any other advance increment granted to him in the lower post, and the anomalies should be directly result of the junior person holding selection grade in the higher scale at the time of his promotion in the higher grade. It is an admitted fact that Shri Nag was junior to the applicant, and only came to draw the same pay as the applicant because he was promoted as Selection Grade Auditor with effect from 21.3.1979 and on passing Section Officer Grade Examination held in December 1978 was promoted as Section Officer from 8.6.1979, when his pay was fixed at Rs.680/- p.m. On the other hand, the applicant was promoted as Section Officer from 24.2.71. He was given proforma promotion as Senior Grade Auditor with effect from 1.12.1976, but no refixation in the Section Officers' Grade was required to be done, as per rules as his pay on his promotion to Section Officers' grade in 1971 was fixed under F.R. 22(C). It was under these circumstances the situation arose that the applicant came to draw pay equal to the pay of Shri Nag. The applicant's case for stepping up of pay has to fail, because the prerequisite condition of drawing less pay than his junior is non-existent. Since he is not drawing lesser pay than Shri Nag, the question of stepping up does not arise.

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The entire case is built on a hypothetical base, and has no substance. The application is misconceived, and for that reason has to be dismissed. There will be no order as to costs.

U. Savara
3. 6. '92.
(MS. USHA SAVARA)
MEMBER (A)