

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 375/96

DATE OF DECISION: 25/7/2000

Shri S.N.Gaur

Applicant.

Shri S.P.Saxena

-----Advocate for
Applicant.

Versus

Union of India & 4 Ors.

-----Respondents.

Shri S.S.Karkera for
Shri P.M.Pradhan

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri B.S.Jai Parmeshwar, Member(J)
Hon'ble Shri Govindan.S.Tampi, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.

No


(B.S. JAI PARMESHWAR)
MEMBER(J)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 375/96
ORIGINAL APPLICATION NO: 60/97
DATED THE 25TH DAY OF JULY, 2000.

CORAM: HON. SHRI B.S. JAI PARAMESHWAR, MEMBER (J)
HON. SHRI GOVINDAN.S. TAMPI, MEMBER (A)

S.N. Gaur,
Lecturere in Hindi,
Hindi Teaching Scheme,
C.D.A. (S.C.)
1, Finance Road,
Pune - 411 001.

... Applicant

By Advocate Shri S.P. Saxena

V/s.

1. Union of India,
Through the Secretary,
Ministry of Home Affairs,
Department of Official
Language, DHQ,
New Delhi - 110 011.
 2. Deputy Director (West),
Hindi Teaching Scheme,
III Floor, Commerce House,
Ballard Estate,
Bombay - 400 038.
 3. The Director (R),
Light House & Light Ships,
Dipbhavan, Pandit Nehru Marg,
Jamnagar - 361 008.
 4. Director General,
Department of Lighthouse & Light Ships,
East Block No. 10, Level No. 4,
R.K. Puram,
New Delhi - 110 066.
 5. The Overall Incharge,
Hindi Teaching Scheme,
O/O. Controller,
Office of CDA (S.C.)
1, Finance Road,
Pune - 411 001.
- ... Respondents.

By Advocate Shri S.S. Karkera for
Shri P.M. Pradhan.

... 2.

Jan'

(ORDER) (ORAL)

Per Shri B.S.Jai Parmeshwar, Member(J)

While applicant was working as Lower Division Clerk in the Office of the Central Institute of Hindi at Agra, he was selected for the post of Junior Hindi Translator by letter dated 22/10/1986 in the scale of Rs.425-700/- on deputation basis. He reported for duty w.e.f. 5/12/1986. Thereafter, the Director by his order dated 17/12/86, Annexure A-5, page-26, fixed his pay in the scale of Rs.1400-2300 w.e.f. 5/12/86.

2. While working as Junior Hindi Translator, he was selected for the post of Lecturer in ~~the~~ Hindi in the Respondent No.5's Organisation.

3. The Audit party while on Audit Inspection verified the said fixation and it ~~was~~ found that as per para 4.4. (II(B) of Appendix 5 F.R.9(5), the pay of the appliant was required to be fixed at Rs.1330/-.

4. Thereafter, ^{the} ~~when~~ Director, Respondent No.3 vide order No.1-E(24)/86 dated 9/10/92 refixed the pay of the applicant in the scale of Rs.950-1500 with special deputation pay of Rs.200/- and fixed his pay at Rs.1130/-. He has further stated that ^{the} ~~he~~ next increment date would be 1/9/87. Against this letter the applicant submitted a representation, not to recover the excess paid to him on the basis of the order dataed 17/12/1986 i.e. page-26 Annexure A-5. However, his representation was rejected.

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Hence the applicant has filed this application for the following reliefs:-

8.a. to quash and set aside the impugned orders dated 28/3/1996, 14/3/1996 and 20/6/1995 issued by Respondent.

b. to declare that the pay fixation of the Applicant at Rs.1400/- per month in the scale of Rs.1400-2300/- as declared in office order dated 17/12/1986 is correct.

5. The respondents have filed a reply stating that applicant was offered the post of Junior Hindi Translator on deputation basis for a period of three years, that he was also working as Lower Division Clerk in the scale of pay of Rs.950-1500 and was drawing a pay of Rs.1130/- in the Central Institute of Hindi. His date of increment was 1/9/87. They submit that the applicant was selected as Junior Hindi Translator on deputation, he joined in the department of Light house and Light Ships on 5/12/1986. They submit that the pre-revised scale of Junior Hindi Translator was Rs.425-700 which was subsequently revised to Rs.1400-2300 and the Department fixed the pay of the applicant on minimum of the pay scale i.e. Rs.1400/- w.e.f. 5/12/1986 in accordance with the instruction at para 4.1, regarding payment of the employees on deputation to ex-cadre post.

...4.

6. They submit that the Internal Audit party of the Controller of Accounts while on Audit Inspection verified the fixation of pay of the applicant and found that the pay of the applicant was required to be refixed at Rs.1130/- i.e. 1130/- + deputation allowances and pay fixed on earlier date by order dated 17/12/86 required reconsideration.

7. They rely upon the rules for granting of scale of pay of the post held on deputation or, where the post on deputation has a fixed pay, that fixed pay. Hence, they have prayed for dismissal of the OA.

8. After hearing the learned counsel for the Applicant, we feel that fixation of pay as per order dated 17/12/86 was done in accordance with the option exercised by the Applicant. The post of Junior Hindi Translator was offered to the applicant on deputation basis for a period of three years. The applicant opted for the scale of pay of Rs.1400-2300 and accordingly the Director fixed his pay at Rs.1400/- p.m. Further, the applicant was paid as such till his period of deputation was completed.

9. It is only on the basis of the objections raised by the Audit Party they attempted to recover the excess amount paid to the Applicant. The applicant has submitted representation against recovery and he has clearly stated that fixation of pay ^{was} as per order dated 17/12/86 ^{and} was perfectly in order and ^{it} he did not call for any ^{Cancellation} ~~explanations~~. He further stated that order

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dated 9/10/92 which was passed after a lapse of six years was not justifiable. Further, when he apprehended the recovery, he approached this Tribunal.

10. The fixation of pay done as per order dated 17/12/86, the respondent's office should not have taken note of the Audit Party's ^{objections} and attempted to recover the excess paid to the applicant. As the applicant applied in terms of the advertisement and had opted for fixing his pay accordingly in terms of the letter, the action on a subsequent date to rectify the fixation and recover the amount would amount to injustice.

11. In the result the OA is allowed. No amount should be recovered from the applicant as ordered vide order dated 9/10/92.

(EDVINDON.S.TAMPI)
MEMBER(A)

abp.

(B.S.JAI PARMESHWAR)
MEMBER(J)

25.7.00.