

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 888/96

Date of Decision: 3.5.1999

Shri S.K. Malhotra

Applicant.

Shri R.P. Saxena.

Advocate for
Applicant.

Versus

~~Union of India and others.~~

Respondent(s)

Shri R.R. Shetty for
Shri R.K. Shetty

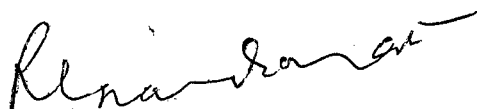
Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Baweja, Member (A)

- (1) To be referred to the Reporter or not? *No*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *No*


(R.G. Vaidyanatha)
Vice Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No.888/96

Monday the 3rd day of May 1999.

CORAM: Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member(A)

S.K. Malhotra
3 - Priyadarshni
C.S.D. Estate,
Ghatkopar (W)
Mumbai.

... Applicant.

By Advocate Shri R.P. Saxena,

V/s.

Union of India through
The General Manager,
Canteen Stores Department
ADELPHI 119, M.K. Road
Mumbai.

The Controller of Defence
Accounts
(Canteen Stores Department)
ADELPHI 119, M.K. Road,
Mumbai.

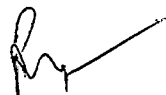
... Respondents.

By Advocate Shri R.R.Shetty for Shri R.K. Shetty.

ORDER (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

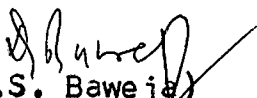
This is an application filed by the applicant praying for a declaration that he is entitled to pay fixation on the basis of his previous adhoc service in the promotional post to which he has been subsequently regularly promoted. The respondents have filed reply to O.A. as well as M.P. 119/99 for early hearing and for disposal of the O.A. After hearing both sides M.P. 119/99 is allowed. We have heard counsel for both sides on merits.

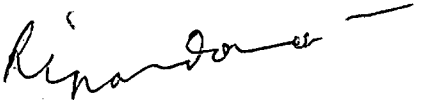


The applicant was promoted as Assistant Accounts Officer on adhoc basis with effect from 23.7.1987 and he has been subsequently regularised in the promoted post with effect from 5.11.1990. The applicant's case is that on adhoc promotion from 23.7.1987 to 31.10.1990 the applicant is entitled to the benefit of annual increment and on that basis his pay may be fixed from 5.11.1990. The learned counsel for the applicant has referred to an earlier decision of the Division Bench in an identical case (OA 790/96) decided on 7.4.1998 (B.R. Daschoudhary V/s Union of India and others). In that case the Tribunal had referred the rules and has held that the person who is on adhoc promotion is entitled to annual increment after completion of 12 months. Therefore in view of the legal position there is no dispute that the applicant should get the benefit of adhoc service for grant of annual increment.

2. In the result both the O.A. and M.P. are allowed. The impugned order of fixation of pay dated 16.2.1996 is hereby quashed. The respondents are directed to grant increment to the applicant at the rate of one increment after completion of 12 months of adhoc service for the period from 23.7.1987 to 31.10.1990. After granting annual increment for that period, the applicant's pay shall be re-fixed when he got the regular promotion with effect from 5.11.1990. On the basis of re-fixation, if the applicant is entitled to any amount it must be paid to him or if any excess amount has already been paid to the applicant, the excess amount can be recovered from the future pay of the applicant in reasonable monthly instalments.

Since the applicant has already been given the benefit prior to the impugned order dated 16.2.1996, the applicant is not entitled to any further monetary benefit in pursuance of this order. However the respondents are directed to pass appropriate order of re-fixation of pay of the applicant. No order as to costs.


(D.S. Baweja)
Member(A)


(R.G. Vaidyanatha)
Vice Chairman

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