

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 411/1996

DATE OF DECISION: 24/7/2001

Shri B.R.Dubey

Applicant

In person

Advocate for
Applicant.

Versus

Union of India & 2 Ors.

Respondents.

Shri V.D.Vahdavkar for Shri M.I.Sethna Advocate for
Respondents.

Coram:

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri.V.K.Majotra, 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,

Majotra

(V.K.MAJOTRA)
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
OA NO.411/1996

Mumbai this the 24th day of July, 2001

CORAM:HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)
HON'BLE SHRI V.K.MAJOTRA, MEMBER(A)

Shri B.R.Dubey,
working as Draughtsman
Residential Address:
1B/29, M.H.B.Colony,
Near Ashokvan, Borivali(E),
Bombay - 400 066.

... Applicant

In person.

V/s.

1. Union of India,
through, the Chairman of
Central Board of Central Excise
and Customs, North Block,
New Delhi - 110 001.
2. Commissioner Preventive Operation,
Customs & Central Excise,
Lok Nayak Bhavan, 4th Floor,
Khan Market, New Delhi - 110 003.
3. Joint Director Marine,
Customs Marine Head quarters,
16, Arthur Bandar Road,
Hotel Waldorf, 2nd Floor,
Colaba, Bombay - 400 005.

... Respondents

By Advocate Shri V.D.Vadhavkar proxy
Counsel for Shri M.I.Sethna

(ORDER)(ORAL)

(Hon'ble Shri V.K.Majotra, Member(A))

The applicant assails the inaction of the respondents in not granting benefit of higher payscale to the applicant as Draughtsman in terms of OM dated 20/3/81 (Annexure A-3) and OM dated 19/10/94 (Annexure A-6) having not granted the benefit of one promotion in ACPS. He has sought the scale of Rs.425-700

...2.



with effect from the date of appointment as Draughtsman i.e. 5/4/76 and fixation of his pay in the scale of Rs.550-750 with effect from 13/5/1982 with all actual and consequential benefits from 1/11/1983. He has further sought that the respondents be directed to pay him interest on arrears and that he should be awarded costs.

2. In their counter the respondents has stated that since only one sanctioned post of Draughtsman is available with the respondents, the applicant cannot be accorded any promotion. They have further stated that the applicant is already in the Draughtsman Grade II and all dues have been paid to him with effect from 1/11/83.

3. We have heard the applicant in person as also Shri V.D.Vadhavkar, proxy counsel for respondents. We have also considered the entire material on record including all the documents submitted at the time of hearing, copy thereof has been placed on record. The applicant drew our attention Annexure A-6 dated 25/1/95 contending that in terms of this OM, the respondents should have revised his ~~case~~ ^{scale} to Rs.425-700 on the basis of the arbitration award pertaining to Draughtsman, CPWD. He has further stated that he should have been placed in the higher scale after service of five years in the scale of Rs.330-560. Thus, the benefit of aforesaid revision of scales in this case should have been given with effect from 13/5/82 notionally and actually from 1/11/1983. The applicant further contended before us that he has been stagnating on the single post of Draughtsman Grade-II and has neither been given any promotion nor the benefit of the Assured Career Progression Scheme.

4. During the hearing, the applicant submitted a copy of respondent's order No.11/97 dated 21/8/97 in which it has been stated that applicant has completed minimum period of service for placement from the post carrying the pay scale of Rs.330-560 (Pre-revised) to Rs.425-700 on 4/4/1981. His payscale has been revised notionally with effect from 13/5/82 and the actual benefit has been allowed from 1/11/1983. It has also been ordered that the applicant is entitled to arrears as a result of re-fixation of pay as per the aforesaid stated orders from 1/11/1983 and that he would be drawing his next increment from 1/5/1998.

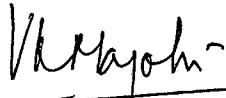
In our considered view, the respondents have accorded the benefit of Annexure A-6 dated 25/1/95, though extremely belatedly.

5. As respects, the granting of the benefit of ACPS, learned counsel for the respondents filed a copy of order dated 3/10/2000 in OA 282/93 whereby the Court had ordered the respondents to consider him for promotion in the ACPS within a period of two months from the date of receipt of copy of the order. The learned counsel has also submitted a copy of Office Order No.63/2001 dated 16/3/2001 whereby the applicant has been allowed financial upgradation in the scale of Rs.5500-175-9000 with effect from 5/4/2000 under the ACPS. It has also been ordered that the applicant shall be given the benefit of pay fixation under the provision of FR 22(1)a(1) subject to a minimum financial benefit of Rs.100/- as per the D.O.P.&Ts O.M. No. 1/6/97-Pay-I dated 5/7/1999 and 10/2/2000. The applicant admits that he has been given the benefit of ACPS through ^{order} ~~case~~.

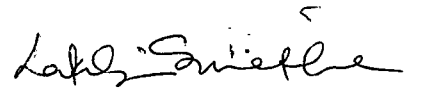
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Whether order in OA - 282/93, information about which the applicant had not furnished in the present OA has been fully implemented or not cannot be made subject matter for adjudication for us in the present matter.

6. Before we part with this case, we have to observe that whereas the applicant has been submitting his representations relating to the matter in this Court before us with effect from 2/2/95, the respondents have caused inordinate delay in responding to him and in passing appropriate orders on them compelling him to bring the grievance before us on 13/2/96 in the present OA. Thereafter, the respondents passed their order ultimately on 21/8/97 giving him benefit of placement in the higher scale. Such delay cannot be countenanced and we take serious notice of it. This is a fit case in our view for imposition of cost on the respondents for their inaction on the representations of the applicant and accordingly we impose a cost of Rs.2000/on them in favour of the applicant. We further consider that it would be in the interest of justice to award interest @ 10% per annum in favour of the applicant on the arrears to be paid to the applicant on revision of his payscale in terms of order dated 21/8/97 till the date of payment of the arrears. OA is disposed on in the above terms.



(V.K. MAJOTRA)
MEMBER(A)



(SMT. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN