

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:828/99

DATE OF DECISION:

10/11/2000

Shri S.N. Barve, Applicant.

Shri S.P. Saxena Advocate for  
Applicant.

Versus

The Union of India and others Respondents.

Shri R.R. Shetty for Shri R.K. Shetty Advocate for  
Respondents

**CORAM**

Hon'ble Shri B.N. Bahadur Member (A)

Hon'ble Shri S.L. Jain Member(J)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

(3) Library.

B-N  
(B.N. BAHADUR)  
MEMBER(A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:828/99

FRIDAY the 10th day of NOVEMBER 2000

CORAM: Hon'ble Shri B.N. Bahadur, Member (A)

Hon'ble Shri S.L. Jain, Member(J)

S.N.Barve  
Commercial Artist  
FE/M, C.M.E.  
Dapodi, Pune.

... Applicant.

By Advocate Shri S.P. Saxena.

V/s

1. Union of India through  
The Secretary,  
Ministry of Defence,  
New Delhi.
2. The Engineer-in-Chief  
Army Headquarters  
New Delhi.
3. The Commandant  
College of Military Engg.  
Pune.
4. The Secretary,  
Ministry of Finance  
(Deptt. of Expenditure)  
North Block New Delhi.

... Respondents.

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

ORDER (ORAL)

(Per Shri B.N. Bahadur, Member (A))

We have heard counsel on both sides. After going through the pleadings and after hearing the counsels it is seen that the matter now hinges on a very short issue. We have therefore taken up this matter for disposal at the admission stage.

*Bnb*

...2...

2. The Applicant has sought a number of reliefs. Shri Saxena however states on the out set that the main relief on which the matter hinges relates to the provision of Higher Pay Scale in terms of O.M. dated 13.9.1991 and hence presses this relief. We consider this prayer at the present initial stage.

3. The applicant at the appropriate time was in the scale of Rs. 1600 - 2900 and seeking in this context his placement on One Time Promotion, in the scale of Rs. 1640 - 2900.

4. We have heard counsel on both sides and have seen the papers in the cases, specially the O.M. dated 13.9.1991 at page 12 of the paper book and the clarification brought to our notice by the learned counsel for the respondents, Shri Shetty, which is issued by the Ministry of Finance dated 25.5.1992 and circulated by the Ministry of Defence vide its circular/ memo dated 1.6.1992 (page 42 of the paper book).

5. The crucial point contained in the Ministry of Finance O.M. dated 13.9.1991 at para 2 (c) is as follows:- "In cases where no promotional grade is available, promotional scale will be decided by the Ministry of Finance". In fact this is an important point highlighted by the Ministry through underlining. The learned counsel for the Respondents Shri Shetty states that this point has been squarely clarified by the Ministry of Finance circular dated 25.5.1992 referred to above at para 1.8 reads as follows:

.....Whether a Group 'C' employees is stagnating at the maximum of the scale of pay for more than a year can be allowed in-situ promotion to next higher scale which happens to be a Group 'B' scale.

NO

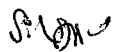
...3...

*B.S.*

6. Now it is clear on reading of the circular whether the next higher scale in Group 'B' any promotion of the kind sought by the applicant cannot be provided since the applicant is in Group 'C' post. The learned counsel for the applicant Shri Saxena states that although higher scale in Group 'C' is not available in CME such a scale is available in Government of India. He thus prays that the higher scale of Government of India should be provided. The clarification referred to by Shri Shetty, in our view does not go into this aspect.

7. Considering the background of the entire scheme for provision of insitu promotion / incentive against the stagnation of Government employees, we would feel that it would be proper that this doubt is cleared by the Finance Ministry.

8. We dispose of the OA with a direction to respondent No.4 to clarify the point raised above namely whether the next higher scale available in the Government of India in Group 'C' can be provided even though such an higher scale is not available in CME Pune or any other scale is to be provided to the applicant and if so, which is the said scale. The Ministry of Finance shall take a decision in this matter within a period of four months from the date of receipt of copy of this order. Respondent No. 1 and 2 to follow up this with the Ministry of Finance. Other reliefs sought are left open on both sides. No order as to costs.

  
(S.L.Jain)  
Member(J)

NS



(B.N.Bahadur)  
Member(A)

C-100. 15/10,  
for order on 28-6-01

116

M.P./No: 397/01  
For Extension of  
time fixed on  
22/6/2001.

22/6/01

OA.NO.828/99 (15) 22.6.2001

Both counsel present.

2. M.P.No.397/2001 for time to  
implement the order is extended upto  
31.7.2001.

(Govindan S.Tampi)

M (A)

mrj:

(S.L.Jain)

M (J)

dt. 22/6/01  
order/Judgement despatched  
to Applicant/Respondent (s)  
on 22/6/01

NO

(2) C.P.45/2001 DT. 31.7.2001

Shri S.P.Saxena, learned counsel for the applicant and Shri R.R. Shetty for Shri R.K.Shetty for the respondents are present and heard.

2. This Tribunal passed an Order in O.A.No.828/99 on 10.11.2000, the operative portion of which is as follows:

*"8. We dispose of the OA with a direction to the point raised above namely whether the next higher scale available in the Government of India in Group 'C' can be provided even though such an higher scale is not available in CME Pune or any other scale is to be provided to the applicant and if so, which is the said scale. The Ministry of Finance shall take a decision in this matter within a period of four months from the date of receipt of copy of this order. Respondent No.1 and 2 to follow up this with the Ministry of Finance. Other reliefs sought are left open on both sides. No order as to costs. "*

The four months' time for complying above order of Tribunal was further extended till 31.7.2001 vide Order dated 26.6.2001 on respondents moving M.P.397/2001 dated 3rd May, 2001. However, before MP could be moved, CP, which is on Board today, was moved by the applicant on 24.4.2001 alleging that the order of the Tribunal stands disobeyed. As the time was extended for complying with the order till 31.7.2001 on the M.P., CP No.45/2001 remained pending and not

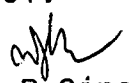
*B. Vinit*

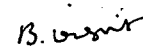
...2/-

listed. Today another M.P.No.397/01 has been moved wherein the respondents prayed for extension of 3 months' time for complying with the order.

3. Heard Counsel for the parties. However, we are inclined to extend the time for complying the order by one month. No further extension will be granted. The M.P. No.397/01 stands disposed of.

4. C.P.No.45/01 to come up on 3rd September, 2001.

  
(M.P.Singh)  
M (A)

  
(B.Dikshit)  
V/C

sj\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P. 45/2001 in  
ORIGINAL APPLICATION NO:828/99

TRIBUNAL'S ORDER

DATED: 5.10.2001

Shri S.P. Saxena counsel for the applicant. Shri R.R. Shetty for Shri R.K. Shetty for the alleged contemner.

2. We have seen the reply filed in the C.P. by Shri Laxman Prasad, AO I, Commandant College of Military Engineering, Pune and have perused the annexure namely letter dated 19.9.2001 from Ministry of Defence which has provided the relief sought. We also find the receipt of Shri S.N. Barve in respect of a sum of Rs. 1,03,248/-.

3. Therefore the Orders in OA have been implemented. We find that there is no wilful dis-obedience. Notice on C.P. is discharged. C.P. is disposed of accordingly: *No costs.*

*S.L. Jain*  
(S.L.Jain)  
Member(J)

*B.N. Bahadur*  
(B.N.Bahadur)  
Member(A)

NS

*5/10/01*  
order/Judgement despatched  
to Applicant/Respondent (s)  
on *23/10/01*