

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 39/2000

Date of Decision : 13.2.02

Smt.Bridget S.P. Applicant

Shri P.A.Prabhakaran Advocate for the  
Applicant.

VERSUS

Union of India & Ors. Respondents

None Advocate for the  
Respondents

CORAM :

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

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

No.

*S.L.Jain*  
(S.L.JAIN)  
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.39/2000

Dated this the 13<sup>th</sup> day of feb., 2002.

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

Smt.Bridget S.P.,  
R/o. No.2, "Prem Ashish",  
Nahur Village, Mulund (W),  
Mumbai.

...Applicant

By Advocate Shri P.A.Prabhakaran

vs.

1. Union of India  
through the Engineer-in-Chief,  
Army Headquarters,  
AHQ P.O. Kashmir House,  
New Delhi.
2. The Chief Engineer,  
Headquarters, Southern Command,  
Engineering Branch, Pune.
3. Controller of Defence Accounts,  
Southern Command,  
Pune.
4. Garrison Engineer (Naval Works),  
Mankhurd, Mumbai.

...Respondents

None for the Respondents

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for direction to the respondents to pay interest @ 18% p.a. on Rs.20,098/- for the period commencing from October,1996 to December,1998.

12/1 -

..2/-

Alternatively, the applicant has sought the relief to identify the official or officials responsible for inflicting harassment and delay on the applicant, pensioner, recover interest from those official or officials and pay the applicant.

2. The Respondents No.1 & 2 issued orders revising the pay of the applicant and officers similarly placed from the scale of Rs.1640-2900 to Rs.2000-3500 w.e.f. 1.1.1991. Bills for drawing the arrears were prepared by the Respondent No.4 and submitted to the Respondent No.3 for passing and issue of cheque/cash. The Respondent No.3 passed the Bill in full, in respect of the official which was as under :-

"It is seen from the paid Vrs. of this office that the increment of the officer was withheld for three years due to disciplinary case. Please confirm that he is fit for promotion to the scale of pay 2000-3500 on 1.1.1991 before disbursement of the amount. After confirming the same only the amount may be disbursed to the officer. This may please be accorded priority."

3. The respondents have passed the said bill in view of an order passed by CAT Bangalore Bench in OA.Nos.1337 & 1364 to 1375/94 on 1.3.1995. the operative part of the order is worth mentioning which is as under :-

" For the reasons discussed above, we deem it proper to allow the applications and grant the reliefs sought. Consequently Annexure A-10 order dated 8.4.1994 issued by R-2 is hereby quashed. We further direct the respondents to grant higher pay scales as that paid to JEs in CPWD in the

3/-  
Sly

scale of Rs.1640-2900 to the applicants in Gr.II Supdt. who as and when complete 5 years of service in the grade with effect from 1.1.1986 and who as and when complete 15 years of service in that grade the scale of Rs.2000-3500 with effect from 1.1.1991 on the same lines as contained in the communication of MUD dated 21.3.1991 addressed to DG (Works),CPWD as in Annexure A-2. The direction should be complied with within a period of three months from the date of receipt of a copy of this order. No costs."

4. The defence of the respondents is that they had granted the benefit to the applicant in keeping with the directions of the CAT, Bangalore Bench in OA.Nos.1337 & 1364 to 1375/95 rendered on 31.3.1995 in the case of B.N.Kadapatti & Ors. vs. Union of India & Ors. The benefit was granted to the applicant erroneously as he was undergoing a penalty as per the punishment awarded by the Chief Engineer, Southern Command under letter No.130805/2/450/E1D dated 20.9.1991. The applicant was penalised to reduction to three stages lowered in the time scale of pay for a period of 3 years without cumulative effect. The promotion of the applicant was to be made after a DPC and thereafter he was to be placed in the scale of Rs.2000-3500 w.e.f. 1.1.1991. The question of promoting the applicant did not arise as the applicant was facing disciplinary proceedings.

5. A chargesheet was served upon the applicant under Rule 16 of the CCS (CCA) Rules,1965 on 3.4.1990 and was penalised on or about 20.9.1991. The respondents alleged that they are now seeking to amend the upgradation given to the applicant from 1.1.1991 and granting the said upgradation only with effect from

PLS / / ..4/-  
c

October, 1994, i.e. the date on which the penalty imposed upon him for a period of 3 years would come to an end and the wrong calculations done in favour of the applicant are as per Exhibit-'R-4' whereas the correct calculations, i.e. the amount actually due to the applicant upon the completion of the period of penalty imposed upon to him from October, 1994 works out to only Rs.15,345/-. Therefore, the respondents submit that an amount of Rs.4,753/- has been paid in excess to the applicant.

6. On perusal of the order of Bangalore Bench referred above, suffice to say that on account of revision of the grade due to interference by the judicial authorities, the applicant was entitled to the pay scale of Rs.2000-3500 w.e.f. 1.1.1991.

It was not a case of promotion where the question of considering pendency of chargesheet or inflicting and under going of punishment was the subject matter of consideration. As such, the defence raised by the respondents is not only justified but irrelevant one.

7. The applicant served a notice dated 8.5.1998 through his Advocate and another notice dated 7.1.1999. Thereafter, amount was paid on or about 31.12.1998.

8. The learned counsel for the applicant relied on 2002 SCC (L&S) 95 - R.D.Rao vs. Chairman & M.D., Punjab National Bank & Ors., which lays down the proposition that grant of on pay amount claimed due to revision of pay, interest @ 12% p.a. was awarded. Similar is the view reported in III-1996(1) A.I. SLJ 510, M.H. Mahendra vs. Union of India & Ors.

9. The learned counsel for the applicant relied on 1994 SCC (L&S) 640 - State of Maharashtra & Ors. vs. Uttamrao Rayala Nikam which lays down the proposition regarding public accountability on the said post. The applicant's counsel claims that amount of interest be directed to be deducted from personal pay of the officer or officers who recommended withholding of the same.

10. Suffice to state that even the respondents are still continuing to defend their case on the said plea. On perusal of Exhibit-5(1) dated 3.2.1997, the respondents themselves have stated regarding the fact that time period is not covered in the disciplinary case duration of 3 years mentioned at para 1 above. The penalty order was passed on 20.9.1991 while the applicant was entitled to the upgraded scale w.e.f. 1.1.1991. The said penalty was over on 20.9.1994. Even if the version of the respondents for wrong calculation is accepted, the applicant is entitled to interest on an amount of Rs.15,345/-.

11. In the result, it is directed that on a proper calculation whatsoever amount payable to the applicant in view of order of the Bangalore Bench referred above, the applicant is entitled to interest @ 12% p.a. w.e.f. 1.12.1996 till 31.12.1998 along with cost amounting to Rs.1,000/-. The said amount be paid within a period of one month from the date of receipt of the copy of the order. The respondents are at liberty to initiate the action against any of the officials, if they choose to do so.

*PLS/AM*  
(S.L.JAIN)  
MEMBER (J)

mrj.

dt 13/2/92  
order/Judgement despatched  
to Applicant/Respondent(s)  
on 13/2/92

*km*