

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 802 of 2001.

Dated this Thursday, the 21st day of February, 2002.

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.
Hon'ble Shri M. P. Singh, Member (A).

Shri Awadheesh Kumar Pandey,
Group 'B' Divn1. Accounts
Officer, Grade-I,
O/o. Executive Engineer,
Road Development Divn. No. 4,
Andheri (W), Mumbai - 400 058.

Residing at -
A-304, Krishana Deep Apartment,
Yashwant Nagar Vakola,
Santacruz (E), Mumbai - 400 055.

... Applicant

(By Advocate Shri S. P. Inamdar)

VERSUS

1. Union of India through
Comptroller & Auditor General
Of India,
10, Bahadur Shah Jafar Marg,
New Delhi - 110 002.

2. Accountant General (A&E)-II,
Maharashtra,
Nagpur - 400 001.

... Respondents.

(By Advocate

O R D E R (ORAL)

PER : Shri M. P. Singh, Member (A).

By filing this Orginal Application the applicant is
challenging the impugned order dated 29.12.2000 (Annexure A-1)
passed by Respondent No. 2.

2. The brief facts of the case are that the applicant was appointed as a Divisional Accountant in the pay scale of Rs. 425-750 w.e.f. 02.01.1985. The pay scale of Rs.425-750 was revised by the Fourth Pay Commission as Rs.1400-2600. Thereafter, the applicant was promoted as Divisional Accountant Officer Grade-II in the pay scale of Rs. 1640-2900 with effect from 19.01.1993. The scale of Rs. 1640-2900 has been revised to Rs. 5500-9000 by the Vth Pay Commission.

3. According to the applicant, his first increment of pay was released with effect from 11.06.1986 and the next date of increment was 01.06.1987. In fact, the Applicant was entitled for his first increment on 01.01.1986 and next date of increment would have been 01.01.1987 and so on. Thus there is a delay in drawing the first increment which has resulted in withholding of one increment of the applicant cumulatively. The Applicant made a representation to the Respondents on 28.10.1999 stating that he ought to have been granted first increment of pay on 01.01.1986 and his pay should have been raised from 425/- to Rs. 440/(Rs.1440/- as per revised scale) and at the stage of Rs. 1480/on 11.06.1986. The respondents vide their communication dated 25.11.1999(Annexure A5) have referred to the circular dated 20.3.1997 (Annexure A6) which interalia provides that "the benefit of counting the period of training for pay will be admissible on notional basis from 1.1.1986 and actual basis from the date of issue of these orders" i.e. 20.03.1997. According to the Applicant, the Department of Personnel & Training had also issued order dated 31.3.92 for counting the training period for

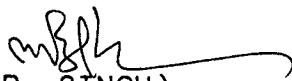
the purpose of drawing increments. As per these instructions, the benefit of the treatment of such training period as duty for the purpose of increment is allowed to those Government servants also who had undergone such training on or after 01.01.1986. However, in such a case, the benefit of counting period for pay will be admissible on notional basis from 1.1.1986 and actual basis from 1.10.1990. The applicant had submitted a representation on 19.07.2000 but the respondents rejected his representation vide order dated 29.12.2000 (Annexure A-1). Hence, the applicant has filed this O.A. and sought direction to quash and set aside the impugned order dated 29.12.2000 issued by Respondent No. 2 and direct the respondents to extend him the benefit of the judgement dated 25.09.1995 (Annexure A-18) of the Hyderabad Bench of the Tribunal in O.A. No. 607/91. He has also sought direction to Respondents to count the service rendered by him during probation/training from 02.01.1985 as duty and consequentially grant him increment after completion of one year period of probation/training with effect from 01.01.1986.

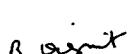
3. The Respondents have contested the case and have stated that the Applicant is not entitled for increment during training/probation period as he was not a party to the Original Applications filed before the Mumbai and Hyderabad Bench of this Tribunal. The said judgments were applicable only to the Original Applicants in those O.As. and not to others. According to them, the pay fixation of the applicant has been done correctly, which is in accordance with the circular dated 20.03.1997 issued by the Headquarters, hence, the pay fixation already done requires no modification.

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4. Heard the Learned Counsel for the rival contesting parties and perused the records. During the course of argument, the Learned Counsel for the Applicant drew our attention to the judgement dated 25.09.1995 in O.A. No. 607/91 filed before the Hyderabad Bench of the Tribunal. He submitted that the case of the Applicant is fully covered by the aforesaid judgement of the Hyderabad Bench of this Tribunal, hence, the applicant also should be extended the benefit of the said judgment for the purpose of fixation of his pay and drawal of increment by counting the period spent by him during probation/training as duty. On perusal of the said judgement of the Hyderabad Bench, we find that the case of the applicant is covered in all fours and in view of the ratio laid down in the said judgement, we allow this O.A. and pass the following order/direction :

- (i) Respondents are directed to extend the benefit of aforesaid judgement dated 29.5.95 of Hyderabad Bench of the Tribunal in OA No.607/91 to the Applicant and to treat the period of probation/training spent by applicant as duty for the purpose of drawal of increments and grant him the benefit of fixation of pay in accordance with the D.O.P.T O.M. dated 31.03.1992 (Annexure A-9) within a period of three months from the date of receipt of a copy of this order.
- (ii) No order as to costs.


(M. P. SINGH)
MEMBER (A).
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(BIRENDRA DIKSHIT)
VICE-CHAIRMAN.

dt: 21.2.2002.
Order/Judgement despatched
to Applicant/Respondent(s)
on 6.3.2002.

