

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Bangalore Bench

DATED THIS THE TWENTY FIRST DAY OF OCTOBER, 1986.

Present: Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
and
Hon'ble Shri P. Srinivasan, Member (A).

Application No. 247 of 1986.

Between:-

T.K. Nagaraja Rao,
Office Superintendent,
Office of the Commandant Works Engineer,
M.E.S., Dickinson Road,
Bangalore.

....Applicant.

and

1. Union of India,
rep. by its Secretary,
Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief,
Army Headquarters,
New Delhi.
3. The Chief Engineer,
Southern Zone,
Military Engineering Services,
Madras.
4. The Commandant Works Engineer,
M.E.S.,
~~New Delhi~~ Bangalore.
5. The Directorate General of Border Roads,
New Delhi.

...Respondents.

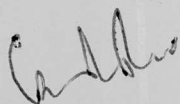
The application has come up for hearing today
before this Court, and after hearing both counsel, the
Member (J) made the following:

ORDER

This is an application filed initially in the High Court of Karnataka as a writ petition, and later transferred to this Tribunal U/s 29 of the Administrative Tribunals Act, 1985.

The facts giving rise to this application are briefly as follows:-

The applicant was an Upper Division Clerk (UDC) in the Military Engineering Service (MES) at Ahmedabad in or about 1961 when he was sent on deputation to No.1 Headquarters, BREF, Roorkie as Assistant Incharge. He reported at Roorkie on 17.9.1961. While at Roorkie, he was given an option either to choose the pay scale in his parent department plus deputation allowance of 20%, or the pay of the post to which he was deputed. He opted for the former. The post of Assistant Incharge at Roorkie carried a charge allowance of Rs. 20/- p.m. The first grievance of the applicant is that he was not given the charge allowance while working as Assistant Incharge at Roorkie. While he was so working, he was promoted to the post of Superintendent (Clerical) w.e.f. 27.7.1964 and he held that post till 31.5.1966, when he reverted back to his parent cadre as U.D.C. His second prayer is that the period during which he worked as Superintendent (Clerical) at Roorkie should be counted for purposes of seniority and fixation of pay in his parent department as and when he is promoted to a cadre equivalent to that of Superintendent (Clerical) in his parent department.

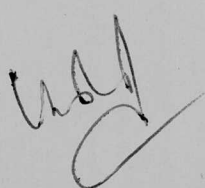


Shri Ranganath Jois, learned counsel for the applicant, contends that his client is entitled to the charge allowance which the post of Assistant Incharge carried at Roorkee, in addition to the deputation allowance which he was already drawing.

Shri M.S. Padmarajaiah, learned counsel for the respondents, submits that the applicant, having opted to receive the pay admissible for the post he was holding in his parent department plus the deputation allowance of 20%, is not entitled to claim the charge allowance which the post carried; such an allowance would be payable only if he had opted for the scale of pay of the post at Roorkee, which he did not do.

After giving careful thought to the rival contentions, we are satisfied that it is neither legal nor equitable for the applicant to claim both the deputation allowance and the charge allowance. The charge allowance is an allowance attached to the pay scale of the post, and it has nothing to do with deputation allowance which the applicant was receiving on the basis of the pay he was drawing in his parent cadre. We ~~xxx~~, therefore, hold that the first grievance of the applicant is not justified.

Turning to the second prayer of the applicant, we see no justification for giving credit to the period during which the applicant held the higher post of Superintendent (Clerical) at Roorkee for the purpose of determining his



seniority and pay fixation as and when he is promoted to a higher post in his parent department. In this connection, it is pertinent to note that deputation is always regarded as a fortituous circumstance, and no right can accrue on that basis in the cadre of his parent department. We, therefore, reject the prayer of the applicant in this regard.

In the result, the application is dismissed.
There will be no order as to costs.

Ch. Ramakrishna Rao
(CH. RAMAKRISHNA RAO)
MEMBER (J)
21.X.1986.

P. Srinivasan
(P. SRINIVASAN)
MEMBER (A)
21.X.1986.

dms.