

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Dated : 15 APR 1988

APPLICATION NO 1032 / 87(F)

W.P. NO. _____ /

Respondent

v/s

The Chairman, Central Board of Central
Excise, New Delhi & 2 Ors

1. Shri T.N. Ramamurthy
45, Nala Road
Shiven Chetty Garden
Bangalore - 560 042

2. Shri Shantaram Sawant
Advocate
26/1, 1st Cross
Miller's Road
Benson Town
Bangalore - 560 046

3. The Chairman
Central Board of Central Excise
New Delhi - 110 002

4. The Collector of Central Excise
Central Revenue Building
Queens Road
P.B.No. 5400
Bangalore - 560 001

5. The Deputy Collector of Central
Excise (Personnel & Establishment)
Central Revenue Building
Queens Road
P.B. No. 5400
Bangalore - 560 001

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~SEALED~~/~~INTERIOR~~ ORDER
passed by this Tribunal in the above said application on 4-4-88.

DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

for the purpose of this application to go into the details of the charges levelled against him and the report of the Inquiry Officer which preceded this order. The appellate authority by order dated 18.1.1980 reduced the punishment to one of reduction of pay by four stages from Rs. 485 to Rs. 425 in the then pay scale of Rs. 425-15-500-EB-560-20-700-EV-25-800. The appellate authority further directed that the applicant would not earn increment of pay during the period of reduction and on the expiry of this period the reduction would have the effect of postponing his future increments of pay. Thereafter the President reviewed the case and by an order dated 13.8.1982 issued in the name of the President, the punishment awarded to the applicant was enhanced to that of compulsory retirement from service and this order took effect from 25.8.1982 from which date the applicant stood retired. Against these orders the applicant filed W.P. 12822 of 1982 which on transfer to this Tribunal was registered as A.No.1077/86. Disposing of this application this Tribunal by its order dated 15-1-1987, directed as follows:

"Taking all the factors into account and taking an overall view of the matter, we feel that compulsory retirement is harsh. The penalty imposed by the appellate authority of reduction of pay by four stages seems to be a fair punishment with the modification that the reduction shall continue to be in force till the applicant is reinstated as a result of this order and not for



a period of 3 years only as ordered by the appellate authority. The period for earning increments will start running after the date of re-instatement."

After this order, the applicant was reinstated in service w.e.f. 31-7-1987(AN). Before the aforementioned application was decided by this Tribunal Respondent No.2 (R2) passed an order dated 20-1-1987 regulating the pay and allowances due to the applicant for the period 2-11-1978 to 25-8-1982. This fixation was done in pursuance of an order of a Division Bench of the Karnataka High Court dated 4-2-1986 rendered in Writ appeal No. 59/82. It is not necessary to go into the order of the High Court for the purpose of this application. The pay fixation was made as follows:

"In view of the above position, the Central Board of Excise and Customs have confirmed their provisional decision that (i) the pay and allowances for the period from 2-11-1978 to 23-1-1980 of Shri T.N. Ramamurthy be restricted to 50% of his pay and allowances that would have been admissible to him had he not been removed from service and the period in question be treated as a period not spent on duty; (ii) the period from 24-1-1980 to 10-2-1980 be treated as in service with full pay and allowances; and (iii) the period from 11-2-1980 to 25-8-1982 be treated as not spent on duty and the pay and allowances of Shri Ramamurthy for this period be restricted to that of subsistence allowance already paid to him; and order accordingly."



3. After A.No. 1077/86 was disposed of by this Tribunal by order dated 1-5-1987 and the applicant was reinstated as a sequel thereto, the respondents had to regulate pay and allowances due to the applicant for the period 25-8-1982 (date from which he was compulsorily retired)

P. S. H.

to 31-7-1987 (date of his reinstatement in compliance with the orders of this Tribunal).

R-2 passed an order dated 29-9-1987 for this purpose which reads as follows :

"The reply received from Shri T.N. Ramamurthy, has been carefully considered. I feel there is good reason to accept his request as F.R.54A does stipulate that regularisation of period of absence from duty should be done subject to directions, if any, from the Court. The Inspector, Shri T.N. Ramamurthy is entitled to draw the salary that he was drawing at the time of compulsory retirement i.e., Rs. 425/- as per the orders of the Collector in the disciplinary case, for the period from 25-8-1982 to 31-7-1987. This period is also treated as spent on duty. The period increment would start running after the date of reinstatement, as ordered by C.A.T. in their order dated 1-5-1987.

sd/-
(HEERA RADHAKRISHNAN)
DEPUTY COLLECTOR (P&E)

4. The applicant's prayer in this application is that the entire period from 2-11-1978 to 31-7-1987 be treated as period spent on duty setting aside the orders dated 20-1-1987 and 29-9-1987 passed by R-2.

5. Sri S. Sawant, learned counsel for the applicant, submits that as the applicant has been reinstated in service setting aside the earlier order by which he was compulsorily retired he should be treated as having been on duty from 2-11-1978 to 31-7-1987. He contends that the respondents were not right in not giving the applicant full pay and allowances for the entire period.



R. S. Sawant

6. Sri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents supported the orders of R-2 and submitted that since the applicant had not been fully exonerated of the charges by this Tribunal which upheld the finding of guilt but only reduced the penalty, the entire period between the initial order of removal from service till the applicant's reinstatement in service could not be treated as on duty and the applicant could not be allowed pay and allowances on that basis.

7. After careful consideration, we are in agreement with Sri Padmarajaiah that the applicant is not entitled to full pay and allowances from 2-11-1978 to 31-7-1987 as the period cannot be treated as on duty as he was not fully exonerated of the charges. The claim of the applicant in this respect has, therefore, to be rejected and is hereby rejected.

8. There was one more point made in the application. From 1-1-1980, the minimum pay of the post of ICE was raised from Rs. 425/- to Rs. 500/-. Instead of the earlier pay scale of Rs. 425-800 the scale of pay of an ICE was revised to Rs. 500-900 w.e.f. 1-1-1982. No doubt this Tribunal had upheld the order of the appellate authority freezing the applicant's pay at a figure four stages below what he was drawing when that order ^(of the appellate authority) was passed and



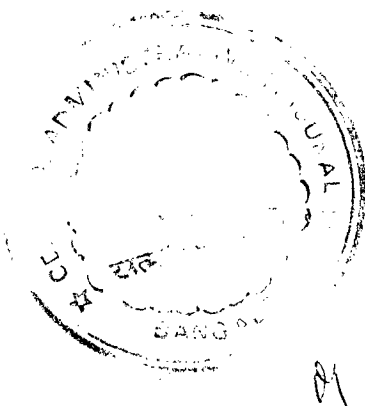
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had further ordered that the applicant would not be entitled to any increment till the date of reinstatement. Immediately prior to ~~18-1-1980~~ ^{1.1.1980}, the applicant was drawing pay of Rs. 485/- p.m. which on reduction by four stages ^{He came} ~~came~~ to Rs. 425/- the minimum of the pay scale, and this was the stage at which we directed it should remain till his reinstatement. But when the minimum of the pay scale itself was raised to Rs. 500/- from 1-1-1980^M, he is entitled ^{to} that pay from that date. Any increment over this stage will, however, be available to him only one year after his reinstatement in accordance with the order of this Tribunal. In other words, from 2-11-1978 (the date of the order of the disciplinary authority) to 31-12-1979, the applicant would be eligible to draw pay at the rate of Rs. 425/- p.m. for periods treated as on duty and from ~~1-1-1980~~ ^{1.1.1980} to 31-7-1987 at the rate of Rs. 500/- p.m., again during periods treated as having been spent on duty. He will earn an increment ^{above} ~~about~~ Rs. 500/- on 31-7-1988. The subsistence allowance for periods not treated as on duty already fixed by the authorities at a percentage of pay and allowances which he would otherwise ^{have} ~~had~~ drawn, should be calculated for periods subsequent 1.1.1980^H on the revised pay of Rs. 500/-.

9. We would also like to make one more clarification. Sri Sawant submitted that

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from 1-1-1986 the applicant had not been allowed pay in the revised scale which came into effect as a result of the implementation of the IV Pay Commission recommendations. If the applicant's pay has not been refixed in the new pay scale from 1-1-1986, we direct the respondents to do so now in accordance with the rules on the subject.

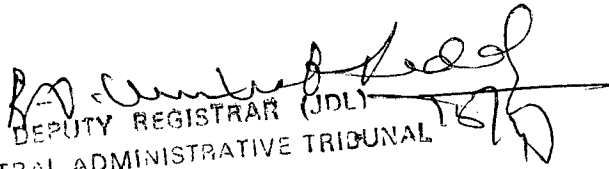
10. The application is disposed on the above terms. Parties to bear their own costs.



Sd/-
(K.S. PUTTASWAMY) 4/4/22
VICE-CHAIRMAN

Sd/-
(P. SRINIVASAN)
MEMBER (A)

TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE