

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(6)

O.A. NO: 522/91 199
T.A. NO:

DATE OF DECISION 24-7-1992

Shri S.R.Shelar Petitioner

MR.V.M.BENDRE Advocate for the Petitioners

Versus

UNION OF INDIA AND ORS. Respondent

V.S.MASURKAR Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE S.K.DHAON, Vice-Chairman

The Hon'ble Mr. M.Y.PRIOLKAR, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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(M.Y.PRIOLKAR)
M/A

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH
CAMP AT NAGPUR

ORIGINAL APPLICATION NO: 522/91

Shri S.R.Shelar

....Applicant

V/s

The Union of India
and others.

CORAM : HONBLE MR.JUSTICE S.K.DHAON, Vice-Chairman

HON'BLE MR. M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Mr.V.M.Bendre, Adv.
for the applicant.

Mr.V.S.Masurkar, Adv.
for the respondents.

JUDGEMENT

DATED: 24-7-1992

(PER : M.Y.PRIOLKAR, M/A)

The applicant who is a civilian employee of the Naval Dock Yard, Bombay was promoted as U.D.C from 1.12.1969. He was granted special pay of Rs.35/- per month with effect from 20.12.1983 in the same post. He was promoted as Superintendent Grade II from 30.1.1984. But following a Bombay High Court judgment setting aside the relevant panel for such promotions, the applicant was reverted as U.D.C. from 9.1.1986. Even after reversion, according to the applicant, he was allowed special pay of Rs.70/- per month till 31.7.1987. He was again promoted as Office Superintendent Grade II from 1.8.1987. The

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The applicant's grievance is that while fixing his pay as Office Superintendent from 1.8.1987, special pay drawn by him from January 1986 to 31.7.1987 has not been taken into account, with the result that his juniors promoted after him are drawing higher pay than the applicant.

2. According to the respondents, the applicant's special pay drawn during 1983 in the post of U.D.C. had been taken into account while fixing his pay as promotion as Office Superintendent from January 1985. But after his reversion he was posted as U.D.C. in another unit where that post of U.D.C. did not carry any special pay. Under the rules, therefore, the applicant was not entitled to any special pay after his reversion as U.D.C. and the special pay erroneously paid to him after reversion has already since been recovered. Since the applicant was thus not in receipt of any special pay on the date of his subsequent promotion as Office Superintendent, the question of taking into account any special pay for fixing the pay in the promotion post did not arise.

3. Admittedly, certain juniors of the applicant were in receipt of special pay of Rs.35 per month prior to their promotion as Office Superintendent Grade-II and their special pay was counted for fixation of pay on their promotion so that they are drawing higher pay than the applicant, although promoted later than the applicant. The learned counsel for the respondents conceded that this anomaly has arisen since the applicant, when reverted as U.D.C. from the post of Superintendent following the High Court judgement, could not be given a post of U.D.C. carrying special pay whereas his juniors were given such posts. The learned counsel also contended that postings to posts of U.DCs carrying special

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pay were being made on the basis of a panel of U.D.Cs. formed for such postings and the applicant not being in such panel could not be given a posting to a special pay post. We are unable to accept this contention. Evidently the applicant, who was serving as Office Superintendent Grade II for almost two years at the time of his reversion could not be expected to be on the panel of U.D.Cs for special pay posts. In our view, since his earlier posting to a special pay post of U.D.C was on the basis of empanelment for posting to special pay posts and he was subsequently promoted and has held the higher post of Office Superintendent Grade-II for two years, apparently without any blemish, he should have been posted to a post of UDC carrying special pay, on his reversion as U.D.C, before any of his juniors was so posted. We accordingly direct that the pay of the applicant on his reversion as U.D.C. with effect from 9.1.1986 should be notionally re-fixed as if he had been posted to a post of U.D.C. carrying the special pay and this special pay should also be taken into account while re-fixing his pay as Office Superintendent Gr-II on his promotion from 1.8.1987. He will be, however, entitled ^{To} monetary benefits by way of arrears of difference in salary only from 1.8.1987, that is, from the date he has actually worked as Office Superintendent. With this direction, this application is allowed with no order as to costs.

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(M.Y.PRIOLKAR)
M/A

SC
(S.K.DHAON)
V/C

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