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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

ORIGINAL APPLICATION NO: 131/91

Mr. Narayan Sakaram Kantode
Divisional Accountant,
Accountant General (A & E)
Maharashtra II Nagpur.

.... Applicant

V/s

The Comptroller and Auditor General,
New Delhi and ors.

.... Respondents

CORAM : HON'BLE MR.JUSTICE U.C.SRIVASTAVA, Vice-Chairman
HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance:

Ms.Meenaxi Iyer, Adv
for the applicant

JUDGEMENT

DATED: 14-11-91

(PER: U.C.SRIVASTAVA, Vice-Chairman)

The applicant after putting in 21 years as a permanent Government Servant in the State Sector was promoted on Administrative Grounds to the Central Sector as E.D.A., where he joined on 4.8.1979. After joining in the Central Government his pay was fixed at Rs. 600/- and the substantive basic pay last drawn by the applicant in the State Government was Rs.560. According to the applicant, the time scale of pay of State Sector and Central Sector are identical after the stage of Rs.560/- and hence the question of giving P.P.without allowances does not arise. The applicant started getting annual

(5)

increment and he reached to the stage of Rs.640/- as on 1.8.1981. His case for crossing E.B. after the stage of Rs.640/- was sent to the A.G. on 17.8.1983. The applicant who had been in the meantime in the Central Government service for six years was informed vide instructions dated 3.3.1987 that his pay is required to be fixed at the minimum time scale of Rs.425-750/- i.e at Rs.425/- with P.P. of Rs.171.50 which carry no allowances, which is usually allowed to the basic pay with effect from 4.8.1979. The applicant has challenged this order on the ground that it is contrary to the provision of Section 6 note 1 and 2 of the Fundamental Rule of 22(C). The applicant's protest against the same was failed to get any departmental relief. He has approached this Tribunal pointing out that, he had been in the State Sector till 30.6.1989 and his pay was also fixed in the State Sector as on 1.1.1986 at Rs.2000/- with date of next increment as on 1.4.1986. On 1.8.1989 his pay in the State Sector was fixed at Rs.2894, whereas in the Central Sector where the posts carry higher responsibilities, on that date his total pay was Rs.2813, and thus, the applicant was made to suffer loss every year, despite the policy of the Comptroller Auditor General to give a deputation allowances for the State Employees who have been posted in the Central Sector on Administrative Grounds for the post of Divisional Accountants, duly protecting their pay and allowances drawn by them in the State Sector. The applicant has claimed certain relief in this behalf in this application. The respondents have opposed the claim of the applicant, and stated apart from the plea that it was barred by time as his earlier representation had already been rejected in the year 1987 and giving of the next representation cannot be give him fresh lien of life so far his representation is concerned. It has been stated that, he was appointed as an Emergency Divisional Accountant and was subsequently confirmed as Divisional Accountant on 30 June 1989.

7


"It is clear from the above letter that the difference between what the applicant was drawing as Senior Accounts Clerk prior to his appointment as Emergency Divisional Accountant and what he would get after his appointment as Emergency Divisional Accountant is protected by granting it as personal pay. Of course that difference is bound to include some portions of the DA, ADA, etc, and hence it is clarified in clause (3) that the difference i.e. the personal pay would not be eligible for other allowances. This cannot be said to be improper or unreasonable on any ground. The respondents have clarified in para 6 of their reply that the difference would be given to the applicant as non-absorbable personal pay for the entire duration of his service as Emergency Divisional Accountant. In other words it appears that the total pay packet of the applicant prior to 17-9-1979, of course excluding Project allowance, would not be reduced in any way after his appointment as Emergency Divisional Accountant. Hence there is force in the submission of the respondents that the present application has become infructuous after the letter dated 31.10.1983. At the same time we propose to direct that the respondents shall see that the applicant's total emoluments would not be reduced on his appointment as Emergency Divisional Accountant."


Following the above decision, we dispose of this application.
However, with this direction, that if the total emoluments of the applicant on which he had joined while working as Senior Accounts Clerk in the Government of Maharashtra reduces after his appointment as Emergency Divisional Accountants on 17.9.1979 in spite of implementing all the directions given by Comptroller Auditor General of India vide letter dated 31.10.1983, then the same shall also be protected by the respondents, ^{Of course,} while doing so the special allowances, like project allowance and other

The respondents stated that the matter regarding the regulation of pay of State Government employees on their appointment as Emergency Divisional Accountant under Fundamental Rules 22-C read with Government of India orders (6) thereunder was challenged and the same already been dismissed by this Tribunal vide order dated 9.6.1988 and as such the applicant has no claim. On merits it has been stated that the pay fixation done by the Executive Engineer was in-correct and ~~that~~ the pay of applicant was fixed in the scale of Rs.425-750 with effect from 4.8.1979 ~~in~~ the ~~scale~~ of Divisional Accountant with the next date of increment being 1.8.1986. This was done in accordance with the provisions of fundamental rules 22(C) read with Government of India orders (6) thereunder and the applicant never reached the stage of Rs.640 in the scale of Rs.425-15-500-EB-15-560-20-640-EB-20-700-25-750 and the question of allowing him to cross Efficiency Bar beyond Rs.640/- never arose. The applicant was allowed to cross E.B. at the stage of Rs.500 vide orders issued in March 1987. In pursuance of the decision of the Comptroller and Auditor General of India and in consultation with Government of India, the applicant was sanctioned personal pay of Rs.171.50 with effect from 4.8.1979, the date on which he joined as an Emergency Divisional Accountant. The reference which has been made by this Tribunal at Bombay in Tr.A.No. 490/86 in the Case of Shri P.W.Tawade V Union of India and ors decided on 9.6.1988 was on the same point. The applicant in that case also was similarly appointed and claimed such reliefs. The Tribunal ~~after~~ considering various orders issued by the Government of India & all provisions of fundamental rules, observed as follows:-

④

compensatory allowances, if any, shall be ignored. There is no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
Vice-Chairman

(18)

THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH,
BOMBAY

M.P. No. 343/92

R.P.No. 81/92

in

O.A. No. 131/91

1-6-1992

Narayan Sakharan Kantode ... Applicant

Vs.

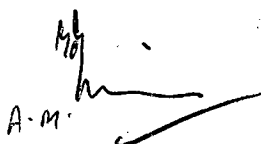
Union of India & others ... Respondents
(The Comptroller and Auditor General
New Delhi & others)

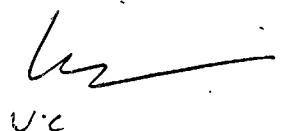
Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. M.Y. Priolkar, M.A.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The review application is directed against our judgement order dated 14.11.91 giving certain directions, we have evaluated our directions given in earlier judgement by the Bombay Bench of the C.A.T. in reference to the case of P.W. Tawade Vs. Union of India decided on 9.6.88 in which the same point was raised for consideration. The scope of review application is limited and any reference can be made only on limited grounds including that there must be error apparent on the face of record. If the respondent have not changed the earlier order which have become.....

We did not find any error apparent on the face of the record. ^{There are no merits in the application} ... The review application is accordingly rejected.

A.M. 


V.C.

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

CP NO. 80/92 in OA 131/91

Narayan Sakharam Kantode
Divisional Accountant
Accountant General (A&E)
Maharashtra II Nagpur

..Applicant

V/s.

Comptroller and Auditor General
New Delhi & Ors.

..Respondents/

Mr. V D Joshi
Accountant General(A&E) II
Maharashtra, Nagpur

Contemner

Coram: Hon.Shri Justice M S Deshpande, V.C.
Hon.Shri M.Y. Priolkar, Member (A)

TRIBUNALS ORDER:
(PER: M Y PRIOLKAR, MEMBER(A))

DATED: 30.7.93

The original applicant has filed this contempt petition alleging non-compliance with the directions given in our judgment dated 14.11.1991 in OA 131/91. The direction in question was as follows:

"... if the total emoluments of the applicant on which he had joined while working as Senior Accounts Clerk in the Government of Maharashtra reduced after his appointment as Emergency Divisional Accountant on 17.9.1979 in spite of implementing all the directions given by Comptroller and Auditor General of India vide letter dated 31.10.83, then the same shall also be protected by the respondents..."

2. According to the respondents, the applicant's pay fixation has been done correctly in terms of Govt. of India order No.6 under FR 22C which deals with the regulation of ^{pay}~~copy~~ of State Government servants appointed under Central Government and the loss in emoluments was compensated by grant of personal pay in accordance with the Comptroller and Auditor General letter dated 31.10.83. The total emoluments of the applicant as on the date of appointment as Emergency Divisional Accountant have thus been protected and the Tribunal's direction dated 14.11.91 is fully complied with.


3. The applicant's contention, however, is that his substantive pay under State Government should have been protected and the total emoluments should be protected not only on the particular day when he was appointed as Emergency Divisional Accountant but also thereafter as long as he continued to hold a lien against the State Government post. It is difficult for us to accept this contention. The direction in the judgment is very specific that the protection given is only for total emoluments as Senior Accounts Clerk on the date of the applicant's appointment as Emergency Divisional Accountant. The respondents have also stated that following representation from the applicant, they had specifically approached the Tribunal seeking clarification of its order, viz., whether it did or did not envisage protection of the applicant's substantive pay in the State Government while working under Central Government after 4.8.79. But this application was rejected by the Tribunal.

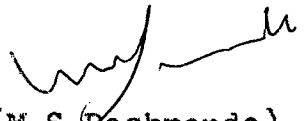
4. We do not, therefore, consider that the respondents have disobeyed, much less wilfully disobeyed, the direction contained in our judgment dated 14.11.1991. The contempt petition is, accordingly rejected. We would, however, only direct that the benefit of increments earned by the applicant from time to time in the pay scale of Emergency Divisional Accountant should also be allowed in addition, without absorbing such increments in the personal pay fixed on initial appointment to that grade. We have thought it fit to give this direction since the learned counsel for the respondents stated that such increments were being paid according to rules in addition to the initial pay fixed whereas the learned counsel for the

(12)

-3-

applicant denied that any such payments had been made.
The judgment dated 14.11.91 does not envisage freezing of the
total emoluments as on the date of first appointment as
Emergency Divisional Accountant.


(M Y Priolkar)
Member (A)


(M.S. Deshpande)
Vice Chairman

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