

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: **782/91.**

Transfar Application No:

DATE OF DECISION: 18.7.1994

C.Lobo.

Petitioner

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri A.I.Bhatkar.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri **B.S.Hegde, Member(J),**

The Hon'ble Shri **M.R.Kolhatkar, Member(A).**

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER(A).

(1)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Original Application No.782/91.

C.Lobo.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Respondents by Sh.A.I.Bhatkar.

JUDGMENT :-

(Per Shri M.R.Kolhatkar, Member(A)) Dt. 18.7.1994.

The applicant was promoted from Upper Division Clerk (UDC) to the post of Office Superintendent (O.S.) w.e.f. 1.2.1984. Previously he was drawing pay as below:

Basic Pay : Rs.560/-

Special Pay : Rs.035/-

Total : Rs.595/-

The pay was drawn in the pay scale of Rs.330-10-380-EB-12-500-EB-15-560. On promotion to the post of O.S. of whose pay scale was Rs.425-25-700, the pay of the applicant was fixed as below:

Pay drawn in :
the earlier : Rs.560/-
post. :

One increment : Rs.020/-

Personal pay :
to be absor-:::
bed in future: Rs.015/-
increments. :

Total : Rs.595/-

2. The applicant represented that while fixing

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the pay decision No.30 below Civil Service Regulations Article 156 (reproduced below) ought to have been taken into account.

"A question has been raised whether service rendered in a leave vacancy under the Central Govt. will be taken into account for purpose of pay on appointment to the same post or a post carrying identical scale of pay. It has been decided that officiating service rendered in leave vacancies (even if non-continuous) will be taken into account while fixing the pay on appointment to the same post or a post carrying identical scale of pay."

3. This contention of the applicant was accepted and his pay was fixed at Rs.660/- by adding five increments to the basic pay of Rs.560/-.

4. However, the pay fixation was reviewed by the Controller of Defence Accounts, he reduced the basic salary from Rs.660/- to Rs.560/- as per the calculations mentioned above. The applicant has impugned this revised pay fixation which does not take into account decision No.30 below CSR 156. According to him, Controller of Defence Accounts has reviewed the pay fixation in terms of FR 22(c) which does not apply to him.

5. The Respondents have stated that initially the pay of the applicant as O.S. was fixed under Article 156A of CSR and he was also given the benefit of Note 30 under Article 156. But later on it came to notice that the benefit of Note 30 under Article 156 was given to the applicant by mistake and therefore his pay was fixed afresh under Article 156A keeping in view the Special Pay of Rs.35/- granted to the applicant in fixation in accordance with the decision No.7 below Art. 156A. In his rejoinder, the applicant states that his original pay fixation of Rs.660/- was revised keeping in view the representation made by one Shri P.K.Chakravarty, OS Grade II requested for stepping up of his pay. The applicant

also has quoted the case decided by Principal Bench of the CAT in Gabar Singh Negi V/s. Union of India (1989 22 ATC 428), which has ~~repeatedly~~ laid down that officiating period in the higher scale, whether ad hoc, temporary or even broken periods do count for earning increments.

6. We have considered the matter especially regarding applicability of decision 30 under Article 156. That decision clearly applies to fixation of pay on appointment to the same post or a post carrying identical scale of pay. It is not the case of the applicant that when he was promoted from the post of UDC to the post of OS this amounted to appointment to the same post earlier held by him or a post carrying identical scale of pay. Admittedly it is a promotion and the scales are also different viz. Rs.330-560 in the case of UDC and Rs.425-700 in the case of OS. The decision 30 has an applicability in different circumstances which do not hold in the applicant's case. The next contention of the applicant is that his pay is drawn from the Defence Estimates and therefore provisions of FRs/GRs and in particular FR 22(c) do not apply to him. It is not the case of the Respondents that the applicant is not paid from the Defence Estimates. What they have stated is that his pay was fixed according to CSR 156A. In any case, it is well known that CSRs and FRs have comparable provisions and the provisions contained in Government of India Order No.11 under FR 22(c) are contained in Ministry of Defence decision No.7 below CSR Article 156A. The point regarding wrong application of F.R. also

has therefore no validity. In the result, we find that the application has no merit and we dispose of the case by passing the following orders.

ORDER

The Original Application is rejected.

No orders as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A)

B.S.Hegde

(B.S.HEGDE)
MEMBER(J).

B.