

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 302/91

199

T.A. NO:

DATE OF DECISION 11.9.92.

S.P.Kulkarni

Petitioner

S.P.Kulkarni

Advocate for the Petitioners

Versus

Union of India & ors.

Respondent

Shri V.M.Bendre, for Shri P.M. Pradhan Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~xxx~~ USHA SAVARA, MEMBER (A)

The Hon'ble Mr.

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 ?

U.S. Savara

(USHA SAVARA)
M/A

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO: 302/92

Shripad Pandurang Kulkarni
Gunjan, Wadavali Section,
Ambarnath (E), Dist.Thane

.... Applicant

V/s

Union of India
and others

.... Respondents

CORAM : HON'BLE USHA SAVARA, MEMBER (A)

Appearance :

Shri S.P.Kulkarni, Adv.
for the applicant

Mr.P.M.Pradhan, Adv.
for the respondents.

JUDGEMENT

(PER : USHA SAVARA, M/A)

DATED: 11.9.92.

Briefly stated the only issue to be adjudicated upon is whether the applicant could claim to be treated as Group 'B' employee from 1.1.1983 to November 1989 though he was only promoted to Group 'B' in November 1987. His claim is based on the recoveries affected from him for C.G.E.I.S. 1980 scheme. He was a regular contributor to the Scheme from 1.1.1982. As Group 'C' employee, he was required to pay only Rs.20, whereas the rate of recovery for the Group 'B' was Rs.40/- It is the applicant's case that since recovery in his case had been made at the rate of Rs.40/- from 1983 onwards, the respondents were estopped from refunding Rs.20/- as excess recovery and treating him as Group 'C' employee. He relies upon Para 5.4 of the Book No.c-3 on Group Insurance Scheme for Government employees to substantiate his case.

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2. The respondents, on the other hand, contend that excess amount was recovered erroneously from November 1983 to February 1985 but this excess has already been refunded to the applicant when he was in service in May 1985. This fact has been conceded by the applicant, and for this reason alone, the case should be dismissed. In the months of March and April 1985 also there was excess recovery and this was also refunded to the applicant on 29.7.1991, when it was noticed. It was further argued that Group 'C' officer is required to be approved for Group 'B' cadre by regular D.P.C. and therefore, he is required to undergo compulsory training of six weeks before he is admitted to Group 'B' i.e. Class II post. However, if no such selected official is available, local arrangement may be made by the Head of the Circle by appointing the Senior most Official eligible in Group 'C'. Such arrangements are purely temporary, and when duly selected officials are available, the local arrangements ~~are to~~ be terminated. Though the applicant was so appointed from 1.1.1982, he was reverted during the period from 20.3.1985 to 27.3.1985. He was regularly appointed on 23.11.1987, therefore his claim to have been holding Group 'B' post from 1.1.1983 to 23.11.1989 cannot be accepted. After 23.11.1987, the recovery of Rs.40/- was in order. Prior to that, whatever excess recovery was made erroneously was refunded. It was also agreed by Shri Bende the learned counsel for ~~the~~ respondent that during the relevant period, the applicant was the disbursing officer himself and he was responsible for the excess recovery. Further,

his promotions were made for specified or short periods, and he was expected to revert to the lower grade and therefore the provisions of Para 5.4 were not applicable to him.

3. The applicant admitted the receipt of the refund of the excess recovered from him upto February 1985. He also admitted that he had been reverted for the period from 20.3.1985. But, undisputedly, he was officiating in Group 'B' post from 28.3.1985 till he was actually promoted. No doubt, he was officiating against leave vacancies, or against post which became available on reversion/promotion of the other official but there was no specific period mentioned in any of the orders. It was conceded fairly by Shri Bendre that the applicant being the 2nd Seniormost Group 'C' official, the respondents tried to ensure that he was not reverted to Group 'C' till his actual promotion. Para 5.4 specifically enjoins the administrative authorities to decide whether an employee is likely to revert to a post in the lower grade. Such a decision has to be made taking into consideration the facts of each case. The respondents were unable to adduce evidence of such an exercise having been carried out by them. Therefore, it follows that the applicant's case is fully covered by Para 5.4 of the Group Insurance Scheme and he was to have been treated as promoted for the purposes of the scheme from 28.3.1985 onwards till he was actually promoted on 23.11.1987.

4. In view of this, the respondents are directed to settle the claim of the applicant in respect of his accumulation in C.G.E.I.S. 1980 saving fund treating him as Group 'B' official from 28.3.1985 onwards till his regular promotion within a period of 3 months from the date of communication of a copy of this order. The relief regarding interest was not pressed by the applicant.

5. There shall be no order as to costs.

Usha Savara
(USHA SAVARA) 11/9/92,

M/A

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