

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 9/91

Transfer Application No:

DATE OF DECISION: 21.10.1994

Shri Somappa Pappanna Petitioner

Shri S.Natarajan Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri S.S.Karkera for Sh.P.M.Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri P.P.Srivastava, Member (A)

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


(P.P.Srivastava)

Member (A)


(M.S.Deshpande)

Vice Chairman

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 9/91

Shri Somappa Pappanna ... Applicant
V/s.
Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice-Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri S.Natarajan
Advocate
for the Applicant

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT Dated: 21.10.1994
(PER: M.S.Deshpande, Vice Chairman)

Though several reliefs have been asked for in this application and numerous amendments came to be effected in the application, the learned counsel for the applicant Shri Natarajan restricted the claim only to being granted due date of promotion from 1.4.1990 and actual monetary benefits from 1.4.1991 on the basis of fixation from 1.4.1990 because the applicant's juniors came to be promoted from 1.4.1990.

2. The applicant was appointed on 1.1.1975 as a Polisher Semi-Skilled in the Machine Tool Prototype Factory Ambernath. A departmental enquiry for misconduct was initiated against him for charge-sheet dated 24.5.1989 and ultimately by the order dated 19.10.1989 a minor penalty of with-holding the annual increment from 1.4.1990 was

imposed on him. The applicant's junior came to be promoted from 1.4.1990. As we have already pointed out the relief that the applicant's learned counsel is restricting is based on the decision which we gave on 18.10.1994 in Dr.P.C.Ahluwalia vs. Union of India in OA.No. 250/89. There it was pointed out while referring to OA.No. 262/88 Pratapsingh Chaudhary vs. Union of India decided on 29.3.1994 which in turn relied on the decision of Principal Bench in Prem Singh Verma vs. Union of India (1993) 24 ATC 222 and it was held that when the penalty was for reduction for a period without cumulative effect, the employee will be entitled to be fixed notionally at the stage which would have been reached had the penalty not been imposed and the benefit of fixation of pay and emoluments came to be granted to the applicant therein. In Md.Habibul Haque vs. Union of India & Ors. Judgements Today 1994 (5) S.C. 356, a similar view was taken and it was held that reduction of scale of pay shall not have the effect of reducing seniority nor it would mean a punishment of reduction of seniority of any placement to which the applicant was entitled.

3. In view of the concession made by the learned counsel for the respondents that the applicant's juniors were promoted ~~on or before 1.4.1990~~, the relief granted to the applicant will be restricted from that date. Since other reliefs have not been pressed for on behalf of the applicant, we direct that the applicant's seniority in the cadre of Machinist will be fixed notionally from 1.4.1990 when his juniors were promoted but actual benefits will be made available to him from 1.4.1991. The respondents shall work out the applicant's entitlement on this basis within three months from the date of communication of this order and pay the amount due to him within the aforesaid period. With this direction the OA. is disposed of.

(P.P.SRIVASTAVA)
MEMBER (A)

(M.S.DESHPANDE)
VICE CHAIRMAN