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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 467/92

199

~~TR.A.NO.~~
~~xxxxxxx~~

DATE OF DECISION 15.7.1994

C.A. Shaikh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

1. Whether it be referred to the Reporter or not ? *M*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

~~MEMBER~~

M.S. Deshpande
(M.S. Deshpande)
VICE CHAIRMAN

mbm

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

CAMP: NAGPUR

OA No. 467/92

C.A. Shaikh

..Applicant

V/s.

Union of India & Ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.

APPEARANCE:

Mr. D.B. Walthare
Counsel for the applicant

Mrs. Rachna Thompson
for Mr. Ramesh Darda
counsel for the respondents

ORAL JUDGMENT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 15.7.1994

By this application the applicant is challenging two orders refixing the pay of the applicant. By Annexure-I to the application dated 5.9.91 for removing the anomaly in respect of the applicant's pay the pay fixation was done by stepping up his date of increment from 18.3.73 to 17.1.73. The applicant does not question the decision that the date of increment had to be advanced from March to January owing to stepping up of pay. However, according to the applicant the consequence was that his pay was fixed at a level lower than his junior Mohd. Luqman Suleman and averments to that effect are to be found in para 5(ii) of the application. In O.A. no. 284/90 the respondents had filed their reply in answer to Suleman's claim by making a submission that the name of the officer junior to C.A. Shaikh was traceable with reference to whose pay the anomaly was removed. According to respondents the record

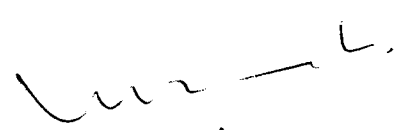
of that year is, however, not available being 20 years old. He was given the benefit of pay fixation with respect to H D Raut and M A Naphade who were junior to Sheikh in the gradation list. The respondents have not answered precisely the point raised in para 5(ii) of the application. The applicant had filed M.P. (N) 97/94 which is a notice to admit facts and with that notice gave Annexure-1. The name of Sheikh appears at Sr.No.5. The applicant has been selected on 18.3.93 for promotion. Annexure 5 is the comparative table of the pay of C.A. Sheikh and Mohd. Luqman Suleman whose pay was Rs. 284 on 1.4.1973 and the anomaly in respect of the applicant came to be removed by granting Rs. 284/- as monthly pay with effect from 17.1.1973. On 17.1.1974 the applicant drew Rs. 292 while Mohd. Luqman Suleman was drawing Rs. 292 as basic pay only from 1.4.1974. According to the applicant this anomaly had not been taken into consideration by the respondents, and the result was that the applicant's junior was drawing pay more than the applicant. Though the action of the respondents in stepping up of the date of increment of the applicant cannot be faulted, the applicant cannot be paid at the rate lower than that of his junior.

2. The respondents are, therefore, directed to see that while stepping up the date of the increment of the applicant from March to January he should not be put to a financial loss and that his pay shall not be fixed lower than that of his juniors. The learned counsel for the applicant states that he would be satisfied if the present pay structure of the applicant is maintained. The respondents

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shall maintain the present rate of pay which has been granted to him. Consequently the order passed passed by respondents on 22.10.1991, Annexure 3, directing recovery of Rs. 1,091/- to be recovered in instalments of Rs. 100/- per month is quashed. The amount which has been recovered from the applicant should be refunded to him with interest @ 10% per annum within two months of receipt of a copy of this order. No order as to costs.


(M.S. Deshpande)
Vice Chairman

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