

(8)

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

O.A. NO: 496/92

199

T.A. NO: ----

DATE OF DECISION 18-1-1993

Prabhakar Dhundiraj Pathak

Petitioner

Mr.M.K.Deshpande

Advocate for the Petitioners

Versus

Union of India

Respondent

Mr.R.Darda

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. -----

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?

MD

[Signature]
(M.Y.PRIOLKAR)
M(A)

mbm*

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.496/92

Prabhakar Dhundiraj Pathak,
Retd.Asstt.Accounts Officer
(Postal),
Flat No.404,
Nirmal Apartments,
Chitale Road,
Dhantoli,
Nagpur - 440 012.

.. Applicant

-versus-

1. Union of India
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi - 110 001
through its Secretary.

2. The Postmaster General,
Nagpur 440 010.

3. Director of Accounts(P0stal),
Nagpur - 440 001.

.. Respondents

Coram: Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.M.K.Deshpande
Advocate for the
Applicant.

2. Mr.Ramesh Darda
Counsel for the
Respondents.

ORAL JUDGMENT:
¶Per M.Y.Priolkar, Member(A)¶

Date:18-1-1993

The prayer of the applicant in
this case^{is} for stepping up of his pay to the
level of his junior one Mr.C.B.Deshmukh w.e.f
28-10-1980.

2. Admittedly the applicant was
senior to Mr.C.B.Deshmukh both as UDC and
Junior Accountant. The applicant was promoted
to the post of JAO on 22-1-1979 after having
passed Sub Accounts Service(SAS) Examination
in September,1978 whereas Mr.Deshmukh was
promoted as JAO on 28-10-1980 after passing
the same examination in July,1980. The pay of

5

Mr.Deshmukh was,however, fixed at Rs.640/- on 28-10-1980 while the pay of the applicant on that date was Rs.620/- This has happened because the selection grade was introduced in the cadre of Junior Accountant w.e.f. 10-1-1977 and Mr.Deshmukh was first promoted to selection grade w.e.f. 23-5-1980 prior to promotion to JAO cadre whereas the applicant was promoted straightway on 22-1-1979 as JAO as by that time he had not become eligible for promotion to the selection grade.

3. The claim of ~~xxxx~~ the applicant for stepping up of his pay is based on an office memorandum dt. 15-2-1983 from the Ministry of Home Affairs(Deptt. of Personnel and AR) on the subject of anomalies in fixation of pay as a result of introduction of selection grades in Group 'C' and 'D' cadre. It is stipulated in this OM that ~~in~~ order to remove such anomalies, ~~the pay~~ of senior employee in the higher grade may be stepped up to make it equal to the pay of the junior person subject to the fulfilment of the following three conditions:-

- (i) The scale of pay of the lower post (ordinary grade) and higher post in which both junior and senior are entitled to draw pay should be identical;
- (ii) The senior employee should have been eligible for appointment to selection grade but for his working in the ~~the~~

higher post on or before the date on which the junior was appointed to the selection grade;


- (iii) The junior person should not have drawn more pay than the senior by virtue of fixation of pay under the normal rules or any advance increment granted to him in the lower post, and the anomaly should be directly as a result of the junior person holding selection grade in the higher scale at the time of his promotion to the higher grade.

4. It is clear that all ~~these~~ three conditions are satisfied in this case. The respondents have rejected the claim of the applicant under letter dt. 4.5.88 on the ground that the anomaly has arisen on account of special pay granted for having passed S.A.S. Part-II but not promoted and not on account of promotion of the junior through selection grade. As pointed out by the applicant, however, such special pay was granted to both the applicant as well as his junior Mr. Deshmukh as both of them had passed S.A.S. Part-II but not promoted. In the written reply to the ^{present} application, it is now stated that Mr. Deshmukh, with ~~whom~~ whom stepping up of pay is asked for, become eligible for that post prior to his passing the JAO examination Part-II in July, 1980. It is not at all clear how this will come in the way of the applicant to earn the benefit of stepping up of pay in terms of O.M. dt. 15-2-83. The applicant admittedly being senior to Mr. Deshmukh would have been eligible

for appointment to selection grade but
for his working in the higher post of
Junior Accounts Officer on the date,
Mr. Deshmukh was ^{so} appointed. I have no ~~doubt~~ *hesitation*
therefore in holding that all the three
conditions stipulated in O.M. dt. 15-2-83
are fulfilled in this case and the applicant
is entitled to stepping up of his pay in
terms of this O.M.

5. The respondents are
accordingly directed to step up the pay of
the applicant to the level of his junior
to the extent permissible under O.M. dtd.
15-2-1983. It may be done within a period
of three months from the date of receipt of
a copy of this order and payments due to him
may be paid. There will be no order as to
costs.

MD


(M.Y. PRIOLKAR)
Member(A)