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

O.A.NO. 43/93
TR.A.NO.

199__

DATE OF DECISION 26.4.1994

Shri Y.R.Deopujari

Applicant(s)

Versus

The Comptroller & Auditor General of
India & Anr.

Respondent(s)

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

MEMBER


(M.S.DESHPANDE)

VICE CHAIRMAN

mbm

(5)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP : NAGPUR

OA.NO. 43/93

Shri Yeshavant Ramkrishna Deopujari ... Applicant

V/S.

The Comptroller & Auditor General
of India & Anr. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri P.N.Deopujari
Advocate
for the Applicant

Shri R.P.Darda
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 26.4.1994

(PER: M.S.Deshpande, Vice Chairman)

This is an application for stepping up the applicant's pay w.e.f. 1.1.1988 to Rs.2600/- when his junior came to draw that pay.

2. The applicant was employed as Upper Division Clerk in the office of Respondent No. 2 on 3.9.1952 and was promoted as Supervisor on 12.4.1984. He was drawing Rs.2480/- on 1.4.1987 and Rs.2540/- on 1.4.1988 while S.M.Dhoke his junior was drawing Rs.2540/- on 4.9.1987 and Rs.2600/- on 1.1.1988. According to the applicant, the anomaly was created because his junior was drawing Rs.2600/- from 1-1-1988 as against the applicant who was drawing only Rs.2540/- on that date. According to the respondents, though an anomaly was created in the present case, when the Circular dated 3.3.1989 issued by Respondent No. 1 S.M.Dhoke was indicated into the functional post of Sr.Accountant from 1.4.1987 and the anomaly was curable in terms of

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above Circular and the pay of the applicant could have been stepped up at the stage of Rs.2600/- w.e.f. 1.1.1988 thus bringing it on par with that of S.M.Dhoke but as the applicant retired on 30.4.1988 and the arrears were payable only from 10.1.1989, the applicant was not entitled to payment of any arrears of pay and allowances as a result of stepping up of his pay with that of S.M.Dhoke.

3. The Circular dated 3.3.1989, however, took note of such anomalies which were likely to be created and directed that where it was found that anomaly in the pay of the seniors had arisen as a result of introduction of functional grade effective from 1.4.1987 and all conditions set forth in Para 2 of the letter dated 6.2.1989. That Circular required :

"Suitable proposals for rectification of anomalies arising in the senior's pay on the post of S.O. from the date of promotion of the junior to that post duly supported by a comparative statement of pay of both the senior and the junior, right from the date of their initial appointment to the date of occurrence of anomaly for consideration and issue of appropriate sanction under FR-27. The resultant arrears in all such cases will however be payable from 10.1.1989 or the date of occurrence of anomaly whichever is later."


Under F.R. 27 :

"Subject to any general or special orders that may be made by the President in this behalf, an authority may grant a premature increment to a Government servant on a time-scale of pay if it has power to create a post in the same cadre on the same scale of pay."

4. The submission of Shri Deopujari for the applicant was that ^{though} the applicant may not be entitled to claim arrears because he retired prior to 10.1.1989, ~~there~~ there was nothing in the Circular which prevented a notional pay being fixed for the applicant. It may be that the applicant would not get

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arrears but his pensionary benefits would increase if a notional fixation is granted. Since this was implicit in the Circular dated 3.3.1989, the respondents were directed to remove the anomaly and fix the pay of the applicant w.e.f. 1.1.1988 at Rs.2600/- and on that notional fixation grant the additional pensionary benefits that might become available to the applicant. This be done within a period two months from the date of receipt of a copy of this order.


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.