

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

O.A.NO. 1027/93
TR.A.NO.

199

DATE OF DECISION 28.4.1994

Shri H.R.S.Rao

Applicant(s)

Versus

Union of India & Ors.

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*


(M.S.DESHPANDE)
VICE CHAIRMAN

MEMBER

mbm:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

CAMP : NAGPUR

(4)

OA NO. 1027/93

Shri H.R.S.Rao

... Applicant

V/S.

Union of India & Ors.

... Respondents

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

Appearance

Applicant in person

Shri M.G.Bhangade
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 28.4.1994

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

By this application the applicant challenges the orders dated 26.6.1992 and 7.1.1993 by which his entitlements were refixed to his disadvantage and for a direction to the respondents to revise the pension and other retiral benefits after taking into account the benefit of stepping up of pay which had already been given to him w.e.f. 1.1.1987 and not to effect any recovery pursuant to the impugned orders.

2. The applicant joined the Department of Indian Bureau of Mines as Stenographer on 2.9.1955 and was promoted as Asstt. Administrative Officer on 30.11.1973. He was selected by the U.P.S.C. and was appointed as Administrative Officer on 19.7.1974 and his pay was fixed at Rs.840/- . The applicant started drawing Rs.1,200/- as the basic pay w.e.f. 1.7.1983, which is maximum in that grade and was then promoted as Senior Administrative Officer on 16.1.1985. A junior to the applicant H.K.Taneja was promoted as Asstt. Administrative Officer on 19.8.1971, i.e. prior to the promotion of the applicant. However, for the next higher post the applicant was selected and appointed on 19.7.1974, whereas Taneja was

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promoted to the said post on 2.9.1977. On the date of promotion of Taneja, his pay was fixed at Rs.1,080/-.

The applicant was senior to Taneja in the cadre of Administrative Officer and Taneja started drawing the maximum basic pay of Rs.1200/- p.m. in the post of Administrative Officer from 1.9.1980 and from 1.7.1983 the pay of the applicant and Taneja were the same, i.e. Rs.1200/- p.m. The applicant's pay was stepped up to Rs.3,625/- p.m. w.e.f. 1.1.1987 as Taneja was drawing this scale of pay and this position was accepted by the Pay and Accounts Officer and the applicant received his pay at Rs.3,625/- w.e.f. 1.1.1987. The applicant retired on reaching the age of superannuation on 30.9.1991. The Local Pay and Accounts Officer raised an objection that the applicant was not entitled for stepping up of his pay when his pension was to be calculated. By the order dated 26.6.1992 the earlier sanction granted for stepping up of the applicant's pay was withdrawn and it was said that the applicant was entitled to get Rs.3400/- on 1.1.1987 with annual increment and his pay on the date of retirement would be Rs.3875/- w.e.f. 1.1.1991 in the pay scale of Rs.3000-100-3500-125-4500. This order has been challenged by the applicant.

3. The material facts which have been stated above are not disputed. The only question is whether the stepping up which was granted to the applicant was in order and whether the order withdrawing the stepping up was correct. Shri Bhangade, learned counsel for the respondents relied on the Government instructions dated 5.2.1972 (Annexure-R-1) where it has been stated that the stepping up should be done with effect from the date of promotion or appointment of the Junior officer and will be subject to the following conditions, namely :-

(b)

"(a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;

(b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;

(c) The anomaly should be directly as a result of the application of F.R.22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer."

The submission was that while the applicant was drawing Rs.1200/- in the lower cadre on 1.7.1983, Taneja had reached at Rs.1200/- on 1.9.1980 and since in the original cadre itself the applicant had been drawing less pay, the instructions regarding the stepping up had been properly followed. However, what is over-looked is that it is only in circumstances such as drawing up a higher rate of pay in the lower cadre than the senior by virtue of advance increments that the provisions in the letter dated 5.2.1972 cannot be invoked. In the present case, it is not the case of the respondents that Taneja had been granted an advance increment. The stepping up as was granted to the applicant earlier was directly as a result of application of F.R.22-C. The benefit which was correctly granted would not have been withdrawn by the erroneously orders.

4. The impugned orders dated 26.6.1992 and 7.1.1993 are, therefore, quashed and the respondents are directed to revise the pension and other retiral benefits of the applicant after taking into account the benefit of stepping up of pay which had already been granted on 1.1.1987 and not to make any recovery pursuant to the impugned orders. The respondents are

further directed to pay to the applicant the amount that would become payable on account of revision as per the first relief granted, within two months from the receipt of a copy of this order with interest at the rate of 12% p.a. upto the date of payment.

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(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.