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

O.A.NO. 1078/93
TR.A.NO.

199

DATE OF DECISION 13.7.94

N.M. Assudani Applicant(s)

Versus

U.O.I. & 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:

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

CAMP: NGAPUR

O.A. No. 1078/93

N.M. Assudani

..Applicant

V/s.

Union of India & Ors.

..Respondents

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

Appearance:

Mr. M.K. Deshpande
counsel for applicant

Mr. R.S. Sundaram
counsel for the respondents

ORAL JUDGMENT:

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

DATED: 13.7.94

The applicant by this application inter-alia seeks the relief of stepping up of his pay to the stage of Rs. 350/- with effect from 29.8.1978 in the pay scale of Rs. 330-10-380-EB-120-500-EB-15-560, i.e., the date his junior started getting more pay on account of usual allowance together with interest @ 12% percent on arrears.

2. The applicant was appointed as Lower Division Clerk on 23.6.1966 and two others viz., R.H. Adbadia and R.V. Pranjale were appointed as L.D.C. on 27.6.66 and 24.8.66 respectively. The applicant was promoted as Junior Accountant on 18.7.1977 while Pranjale was promoted on 29.8.78. The applicant's pay on the date of his promotion was fixed at Rs. 141/- while that of his junior was fixed at Rs. 151/- per month. The applicant was getting less pay than his juniors from 1.7.78 and he was drawing Rs. 340/- while the others who were junior to him were drawing Rs. 350/- from 29.8.78. The applicant made several representations

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~~and~~ the last being Annexure-9 dated 1.4.1992. Earlier when he made a representation on 12.3.91 he was informed by letter dated 5.8.91 by the Accounts Officer/Admn.(Postal) that ^{since} his claim for stepping up was not covered by the rules, his request cannot be acceded to. By the reply dated 21.9.92, Annexure 1, the applicant was informed with respect to his representation dated 1.4.92 that the stepping up of pay of the official cannot be brought within the perview of the orders contained in the Government of India, Ministry of Finance, O.M. No. NF-1(35)/E.II/74, dated 18.7.74 as the anomaly in the pay has not arisen as a result of direct application of F.R. 22(c) but has arisen due to non-exercising of option by the applicant.

3. Shri Sundaram, learned counsel for the respondents states that the pay of Adbadia and Pranjale was fixed on their promotion as Junior Accountant and on the basis of the option they had exercised pursuant to the Government of India Letter No. 7(66)-E.III/83 dated 13.3.1984 by which the time limit for exercising the option was extended upto 31.5.1984. The applicant had not exercised the option of coming into the revised scale of pay because that would not have been favourable to him. However, Adbadia and Pranjale exercised that option and consequently they started getting more pay by exercising that option.

4. It is obvious that the juniors of the applicant were drawing more pay as a result of their promotion though it may be on the basis of the exercise of the option by them later, that will not take out the application of F.R. 22(c). The

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applicant would, therefore, be entitled to have his pay fixed on par with that of his junior Pranale. On the question of limitation it is apparent that the deprival of pay every month would furnish a recurring cause of action to the applicant. Though the applicant will be entitled to the pay fixation at par with his junior Pranale, the monetary benefits payable to him on such fixation would be restricted for the period of one year prior to the filing of the application i.e., from 16.9.1992 only. The respondents, are therefore, directed to fix the pay of the applicant on par with that of Pranale and pay him the difference in pay which would be payable to him as on that basis and that was actually paid to him for a period of one year prior to the filing of the O.A. viz., 16.9.1992 within three months from the date of communication of this order. No order as to costs.


(M.S. Deshpande)
Vice Chairman

Jud. stayed by Sle
in SLE
CA 3279/96
8822/96
Pension 10-5-96.
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