

(24)

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

O.A.NO. 520/93
TR.A.NO.

199

DATE OF DECISION 27.4.1994

Dr. Madhu Kherdey

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*

MEMBER


(M.S. DESHPANDE)
VICE CHAIRMAN

mbm*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP : NAGPUR

OA.NO. 520/93

Dr. Madhu Kherdey

... Applicant

v/s.

Union of India & Ors.

... Respondents

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

Appearance

Applicant in person

Shri R.S. Sundaram
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 27.4.1994

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

By this application the applicant has prayed for fixing his pay first notionally in IPS Gr.A Junior Time Scale (JTS) under FR 22-C and further on the basis of this notional pay fixed into IPS Gr.A Senior Time Scale (STS) on 30.6.1986 which was the date of his assumption of the post of IPS Gr.A STS with arrears and interest thereon.

2. While serving in Group 'B' the applicant was nominated & promoted to the Indian Postal Service Group A JTS vide President of India Order dated 30.4.1986 conveyed to him by the Postmaster General, Bombay by his order dated 25.6.1986. The Postmaster General, Bombay posted him locally directly to the next higher post of Indian Postal Service Group 'A' STS instead of IPS Gr.'A' JTS as Senior Superintendent of Post Offices, Dhule. The applicant joined on 30.6.1986 (FN) and also prepared a charge report taking over the post of Group 'A' JTS and relinquishing it the same day. According to the applicant while getting these promotions, he should have been given the benefit of FR.22-C first while promoting as JTS and then in the STS. The pay of the applicant was accordingly fixed

on 12.8.1986 but the Respondent No. 2 in June '91 fixed the pay of the applicant at Rs.3300/- on the basis of his direct promotion to Senior Time Scale ignoring the notional posting in the Junior Time Scale. According to respondents, the applicant's pay had been properly fixed in June '91. It is not necessary to mention the copious orders produced by the applicant. Certain queries were received and the Govt. of India, Department of Posts clarified the position as follows :

"Whether the pay of group 'B' officers promoted directly to senior time scale will continue to be fixed notionally in Jr.time scale and then with reference to that pay in senior time scale."

The answer to this was :

"It is clarified that in all such cases of promotion, the pay has to be fixed straight away in the senior scale and if the service put in by the officer is 8 years or less, the pay fixation will come to Rs.3,000/- on completion of one year in the senior scale the officer will be entitled to increment if otherwise, found suitable."

In April, 1989 the Dy. Director of Accounts wrote to the Director General (Postal) referring to the factual position. The applicant was amongst the officers at Sr.No. 11 to 21 and in para 3 of the letter this was what was said with reference to these officers.

"3. Officers at Sl. 11 to 21 were promoted on regular basis to Jr.T/S vide DG's No.4-9/86 SPG dt.24.2.86 and No.4-10/86-SPG dt.30.4.86 with instructions to report to the Circle H.O. to which they were allotted. Orders for promotion and posting to Sr.T/S posts within Circle, were issued by Head of the Circle. In these cases, the officers should be deemed to have been promoted to Jr.T/S posts on the day they reported to Circle H.O. Consequently promotion to Sr.T/S post will be from Jr.T/S post."

The Director General (Postal) was asked to confirm whether fixation of pay in case of these officers who were promoted to Group 'A' JTS on regular basis and promoted to Group 'A' STS either simultaneously or subsequently in short term

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vacancies/on adhoc basis by the respective heads of Circle was to be done first in the JTS and thereafter in the STS under FR 22-C. It appears that there was no reply to this communication which stated the factual position which in fact supported the applicant's averments that he had taken the charge ⁱⁿ of the Junior Time Scale. All that was stated in the reply in para 11 filed by the respondents was that the applicant's pay was correctly fixed under the existing rules and not under any presumption. Shri Sundaram, learned counsel for the respondents urged that the applicant had not worked at all in the Junior Time Scale but this submission is not correct in view of the letter at Annexure-18 which has been extracted above. In view of the factual position, the applicant had to be first fixed in the junior time scale under FR.22-C and then again in the Senior time scale under FR.22-C. Instead of fixing his pay accordingly, he was granted benefit of FR.22-C only at one stage and this was arbitrary.

3. With regard to the arrears, the applicant urged that he should be given same benefit as was given to Bapat. In pursuance of the directions given on 7.1.1994 the respondents produced the letter dated 13.11.1992. Fixation in the manner I have indicated above was granted to Bapat and the applicant's case was not different to that of Bapat. Applicant urged that Bapat was given ^{also} arrears and this was not ~~as~~ mentioned in letter dated 13.12.1992. The arrears will be given ~~prior~~ ^{only prior} to one year to the date of filing of the application. The applicant would not be entitled to ^{arrears} ~~period~~ more than one year. The applicant retired on 30.11.1991 and therefore the applicant would not get any arrears of pay but the applicant would be entitled to have his pension refixed on the basis of notional fixation first in the Junior Time Scale and then in the Senior

Time Scale as indicated above. This fixation shall be completed and his pension calculated on that basis and paid to him within four months from the date of communication of this order. The applicant would be entitled to arrears of pension on this basis for a period of one year prior to institution on one year as well.


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Review Petition No.104/94.

in

Original Application No.520/93.

Dr.Madhu Kherdey.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande,Vice-Chairman

ORDER ON REVIEW PETITION NO.104/94.

[Per Shri M.S.Deshpande, Vice-Chairman] Dt.1.9.1994.

By this Review Petition the applicant seeks a direction against the Respondents to pay the entire amount of arrears without restricting them to the period of one year as has been mentioned in para 3 of the Judgment delivered in OA No.520/93 decided on 27.4.1994.

2. It is apparent that the period over which the arrears should be paid was restricted in view of the reasons given in para 3 keeping in view the provisions of section 21 of the Administrative Tribunals Act. The applicant's contention is that there is an error apparent on the face of the record. It is not possible to accept this submission in view of the reasons given in para 3 of the OA. The Review Petition is therefore dismissed.


(M.S.DESHPANDE)
VICE-CHAIRMAN

B.

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Enoy h/T Keyes

THE UNITED STATES OF AMERICA

IN SENATE

COMMITTEE ON THE JUDICIARY

REPORT

ON

THE PROCEEDINGS OF THE TRIAL OF

THE PRESIDENT OF THE UNITED STATES

IN SENATE

AND

THE PROCEEDINGS OF THE TRIAL OF

THE PRESIDENT OF THE UNITED STATES

IN SENATE

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THE PRESIDENT OF THE UNITED STATES

IN SENATE

U.S. GOVERNMENT PRINTING OFFICE

dt 27.4.94
order/Judgement despatched
to Applicant/Respondent (s)
on 9/6/94

9/6/94

R.P. No. 104/94 for
Circulation.

11/9/94

11/9/94
order/Judgement despatched
to Applicant/Respondent (s)
on 6/9/94

11/9/94

MPW 45/95
in R.P. 104/94
fixed for order
in WTC 6/3/95.
at Nagpur.

11/9/94

C.P.N-25/95
fixed for order
during WTC 11/9/95
at Nagpur.

11/9/95

Notices issued to
Applicant/Respondents on 24/9/95

29/7/95

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8.3.95
(Sl. No. 20)

This matter be
placed before the
S/B consisting of
Vice chairman in
the week beginning
from 13/4/95.

11/9/94

(M.R. Kolhatkar)
M(R)

J.

Dated: 28.4.95

Applicant in person.
Shri R.S. Sundaram, Counsel for the
respondents.

M.P. 45/95 is not
maintainable as the review
application in O.A. 520/93 has
been rejected. Hence M.P. is dismissed.

(M.S. Deshpande)
VC

11/9/95
Date - 11-9-95

Applicant present in person.
Rule on C.P. No 25/95 returnable
in the week commencing from
13-11-95.

(P.P. Srivastava) (M.S. Deshpande)
M(R) VC

Notice on CP. received
on R-2 on 29-9-95.
Act file no 119743

(11)

1/11/95

11/11/96
dr ~~21/11/96~~
Order/Judgment dispatched
to Applicant/Respondent (s)
on 30/11/96

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8/2/96

(12)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

THURSDAY the 11th day of JANUARY 1996

CONTEMPT PETITION NO: (N) 25/95 IN O.A. 520/93

CORAM: HON'BLE SHRI B.S. HEGDE, MEMBER (J)

HON'BLE SHRI M.R. KOLHATKAR, MEMBER (A)

Dr. Madhu Kherdey .. Applicant

(In person) - versus -

1. Shri S.C. Mahalik,
Secretary (Posts)
Dak Bhavan,
New Delhi.
 2. Shri T.A. Ramteke,
I/C Director of Accounts (Posts)
Nagpur.
 3. Shri R. Narasimhan,
Chief Postmaster General,
Bombay.
- .. Respondents
- (By Advocate Shri R.S. Sundaram)

O R D E R

(Per B.S. Hegde, Member (J))

The Tribunal vide its judgment dt. 27-4-94 directed the respondents to re-fix his pension on the basis of notional fixation first in the Junior Time Scale and then in the Senior Time Scale and the fixation shall be completed and his pension calculated on that basis and paid to him within four months from the date of communication of the order. The arrears of pension on this basis were restricted for a period of one year prior to institution as well.

2. Pursuant to this direction respondents have issued the order in October '95 a copy of which is produced in the court. Respondents have fixed pay of the applicant in JTS as Rs. 3500/- w.e.f. 30-6-86

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and in STS he was given the salary of Rs.3500 + 100. Regarding pay fixation the respondents have complied with the Tribunal's order. However, applicant states that pursuant to the re-fixation he was not paid additional commutation, DCRG and leave encashment.

3. In so far additional DCRG is concerned since pension includes DCRG respondents are directed to make payment of additional DCRG after re-fixation over and above already paid to him in the old scale, within three months from the date of receipt of this order. Commutation and leave encashment is not part of this O.A. Accordingly CP is discharged.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

M

B.S. Hegde
(B.S. HEGDE)
Member(J)