

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 535/93

Shri P. Babu and two others

... Applicants.

V/s.

Union of India represented by
The Superintending Engineer (Elect)
Bombay Central Electrical Circle
C.P.W.D. New CGO Bldg. (2nd floor)
New Marine Lines.
Bombay.

The Director General of Works
C.P.W.D.
Nirman Bhavan,
Maulana Azad Ali Road,
New Delhi.

The Executive Engineer(Elect)
Bombay Central Electrical Divn.II,
C.P.W.D., Building No.29, Sector VII
C.G.S. Quarters S.M.Plot
Antop Hill,
Bombay.

... Respondents.

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

Appearance:

Applicant in person.

Shri V.S. Masurkar, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 8.2.94

{ Per Shri M.S. Deshpande, Vice Chairman }

The only controversy which arises in the present case is, whether the applicants would be entitled to put in full one year service in the revised pay scale before they can draw an increment or whether the date of original increment in the lower pay scale would be same for drawing an increment in the revised pay scale.

2. The three applicants who appeared in person joined as Junior Engineers respectively on 9.11.77, 21.3.77 and 25.3.77 in the pay scale of Rs. 425 - 700. The entry grade for this scale of pay by virtue of Government of India order dated 22.3.91 was Rs. 1400-40-1800-EB-50-2300 and on

completion of five years of service in the entry grade as on 1.1.86 or thereafter, the Junior Engineers will be placed in the higher grade pay scale of Rs. 1640-60-2600-EB-75-2900 subject to rejection of unfit and ~~that~~ the higher grade will not be treated as a promotional one, but will be non-functional. ~~To this~~ Several representation were made by the applicants to the respondents requesting that they should be granted increment on the date which would have been available to them in the lower pay scale and that it was un-necessary for them to put in full 12 months of service in the revised scale before drawing the next increment. These representations were not accepted.

3. The learned counsel for the respondents pointed out that by letter dated 12.4.93 (Exhibit R 1) the Junior Engineers were asked to give an option for fixation of their pay in the scale of Rs. 1640 - 2900 within a month from the date of issue of this O.M. and the option once exercised shall be final, but the option was not given by the applicants. It must be noted that the applicants ^{pleaded} ~~admits~~ that several representations were made to the respondents requesting the respondents to adhere to the date of increment in the revised pay scale and it does not appear to ^{us} ~~be~~ that this was a case where the respondents should have proceeded on the basis that there was no option. Even otherwise filing of this petition because of the rejection of the representations could have served as exercising the options as were required by the letter aforesaid. The next contention was that the application would be barred by time. But this objection cannot ^{be} ~~sustain~~ ^{ed} because non-granting

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of the increment is a recurring cause of action and the question of limitation cannot arise in the present case.

4. The position of law in this respect is^{as -} laid down by the Supreme Court in the case of Union of India and another V/s. Shyama Pada Sidhanta and others 1991 AIC Vol. 16 where it has been held that the Office Memorandum contrary to FR 23, 22(a)(ii) and 26(b)(i) cannot be given effect to and the employees were entitled to get the first increment in the new scale on the date due in the old scale.

5. In the result, the application is allowed and the respondents are directed to grant next increment to the applicant in the higher grade pay scale of Rs. 1640 - 2900 on the normal date as due in the entry grade of Rs. 1400 - 2300 in respect of all the three applicants. The applicant will be entitled to costs which ^{are} is quantified at Rs. 500/- in one set. This shall be done within two months from the date of receipt of this order.

(M.S. Deshpande)
Vice Chairman.

NS