

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 440/94

Transfer Application No.

Date of Decision

7/12/95

Shri Vinayak Anant Naik

Petitioner/s

Ms. R.R. Oak for Sh. P.G. Karande

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri S.S. Karkera for Sh. P.M. Pradhan

Advocate for
the Respondents

CORAM :

Hon'ble Shri. P.P. Srivastava, Member (A)

Hon'ble Shri.

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(P.P. SRIVASTAVA)
MEMBER (A)

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 440/94

Shri Vinayak Anant Naik ... Applicant

V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Ms. R.R. Oak
for Shri P.G. Karande
Advocate
for the Applicant

Shri S.S. Karkera
for Shri P.M. Pradhan
Advocate
for the Respondents

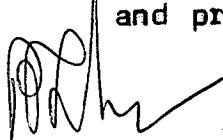
JUDGEMENT

Dated: 7/12/95

(PER: P.P.Srivastava, Member (A)

Through this OA. the applicant has sought
the following reliefs :-

- "(a) That the Respondent No. 2 be ordered, directed to step up pay of the applicant by refixing the same w.e.f. 18.6.1982 at par with his immediate juniors who have been granted revised pay as specified by the Respondent No. 2 in memorandum No. ES-2-37/87-88/Vol.II(57) dated 1st June 1988.
- (b) That the Respondent No. 2 be further ordered, directed to step up pay of the applicant w.e.f. 18.6.1982 as aforesaid in prayer (a) and then revise the Pension, gratuity of the applicant who retired on 29.2.1988.
- (c) That the Respondent No. 2 be ordered and directed to grant reliefs in prayer (a)(b) above within specific time limit as this Honourable Court may deem fit and proper."



2. The applicant has brought out that in terms of the judgement delivered by this Tribunal in OA. No. 772/87 dated 27.6.1988 the applicant's pay was required to be fixed in the post of Time Scale Clerks from the date of initial appointment and the financial benefits were to be paid from 18.6.1982. The applicant was also required to be given notional promotion on the basis of seniority. The respondents in compliance of this order issued a seniority list dated 25.11.1988 (Ex. 'B'). However, according to the applicant, the respondents committed an error and as a result the applicant's juniors were drawing higher pay than the applicant. The applicant represented to the respondents vide his letter dated 9.12.1988 placed at Exhibit-'C' for giving him promotion at par with his juniors.

3. Counsel for the respondents has argued that the applicant has sought relief with reference to Memorandum No. ES-2-37/87-88/Vol.II/57 dated 1.6.1988. (Ex. 'A-1'). The 3 applicants, namely, L.Samuel, Y.J. Thanekar, A.G.Merchant have been given pay fixation as a result of the decision of the Tribunal mentioned in the OA. The counsel for the respondents has brought out that all the 3 persons mentioned in the letter dated 1.6.1988 are senior to the applicant and therefore the relief sought in the OA. is not tenable.



(C)

4. Counsel for the respondents has also brought out that although the applicant has mentioned the name of H.R.Kakhandki who is junior to him in the seniority list, in his representation dated 9.12.1988 since no relief has been sought by the applicant in the OA. against Shri Kakhandki and he has not brought out any material for comparing his pay with Shri Kakhandki, no relief can be granted to him.

5. Counsel for the respondents has also argued that even on merit the applicant has no case for stepping up of his pay vis-a-vis Kakhandki. Kakhandki's pay was more than that of applicant because of officiation in higher post which resulted into his fixation of pay more than that of applicant's pay.

6. The counsel for the applicant has brought out through the rejoinder that the case of the applicant should be considered with reference to Kakhandki as he was junior to him.

7. I have seen the record and heard the arguments. In the OA. the applicant has sought relief with reference to pay fixation done by Respondent No. 2 in their letter dated 1.6.1988 (Ex.'A-1'). Nowhere in the OA. the applicant has brought out any material for comparing his pay with Kakhandki nor he has sought relief with reference to pay of Kakhandki in the OA., therefore,



(P)

I am not inclined to consider the pay of the applicant with reference to Kakhandki as no relief is sought against such fixation nor any material has been brought out in the OA. It is not permissible for the applicant to enhance the scope of the relief sought in the OA. through the rejoinder. As far as 3 names mentioned in the letter dated 1st June 1988, L.Samuel, Y.J.Thanekar, A.G.Merchant are concerned, from the record it is seen that all the three are seniors to the applicant and the applicant cannot have any case vis-a-vis these employees for revision of his pay.

8. In the result, I do not see any merit in the OA., and the same is dismissed.



(P.P.SRIVASTAVA)
MEMBER (A)

mrj.