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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 473/94

Transfer Application No:

DATE OF DECISION: 25.11.1994

Jagmohan Singh Petitioner

Mr. G.S Walia Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Mr. A.L. Kasture Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

1. To be referred to the Reporter or not ? m
2. Whether it needs to be circulated to other Benches of the Tribunal ? m


V.C.

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

O.A.NO. 473/94

Jagmohan Singh

..Applicant

V/s

Union of India & Ors.

..Respondents

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

Appearance:

Mr. G S Walia

Counsel for the applicant

Mr. A.L.Kasture

Counsel for the respondents

ORAL JUDGMENT:

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

DATE: 25.11.1994

By this application the applicant seeks stepping up of his pay so as to bring it at par with his junior S.D. Rehani and maintain the order dated 10.6.91 which was passed in this respect by the respondents.

The applicant's case is that he and Rehani belong to the same cadre. Rehani was promoted on ad hoc basis as a result thereof his pay was increased and it was more than the applicant. Applicant did not have the opportunity to work on ad hoc basis. By the order dated 10.6.91, Annexure D, the applicant's pay was brought on par with that of Rehani. This order dated 10.6.91 however was cancelled by the order dated 19.4.93 and the applicant was asked to show cause against the proposed action. The applicant made a representation on 28.4.93 and the respondents passed an order dated 29.6.93 fixing the pay of the applicant in a manner different from that came to be fixed by order dated 10.6.91. The applicant had approached the Tribunal in OA No. 44/92 and on 28.4.92 the Tribunal had directed the respondents to issue a notice to show cause and then amend the order with liberty to the applicant to

approach the Tribunal if necessary. The applicant takes exception to the manner of fixing his pay by order dated 29.6.93 and contends that his pay should have been fixed at par with Rehani who was junior to him.

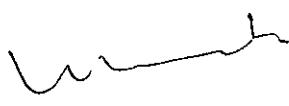
Two contentions have been raised on behalf of the respondents. One was that Rehani and the applicant did not belong to the same cadre and secondly Rehani was not junior to the applicant. The applicant has produced the seniority list dated 30.11.1989 in which the applicant was shown at Sr.No.42 while Rehani at Sr.No.80 in the cadre of Chief Draughtsman/Chief Estimators/Chief Design Assistant, scale Rs.2000-3200(RS). Prior to that a seniority list was issued under the letter dated 3.2.1986 where the applicant was shown at Sr.No.18 and Rehani at Sr.No.20. The applicant's date of promotion was 24.4.1981 while that of Rehani was 1.1.1984. The contention that the applicant and Rehani did not belong to a common cadre is shown to be untrue by the common seniority list which was issued.

It is apparent that the cadre was common and the seniority list is also common. It is curious that the respondents who happened to be department concerned should have raised such irresponsible contentions in the present petition. It is, therefore, clear that the applicant and Rehani were belonging to the same cadre and Rehani was junior to the applicant. The position that Rehani's pay was more because of the ad hoc appointment which was granted to him was not in dispute. In similar circumstances in a group of matters including OA No.926/93 K. RAMACHANDRAN & ORS. V. UNION OF INDIA & ORS., decided on 19.7.94 it was pointed out that if a junior person belonging to the same unit is drawing more pay, the pay of the senior will have to be stepped up at par with the junior. The same view was taken by the Ernakulam Bench of this Tribunal in a group of cases including O.A. No. 337/93 G.K. NAIR V. CHIEF GENERAL

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MANAGER TELECOM, KERALA CIRCLE, decided on 29th October 1993. The Division Bench pointed out that in all cases (except where deduction is by way of disciplinary proceedings) a senior will be entitled to have his pay stepped up to the level of that of his junior, irrespective of the reasons that lead to the anomaly in pay.

The action taken by the respondents in cancelling the order dated 10.6.91 was entirely unjustified. The order dated 29.6.93 which brought about the change in the earlier order is quashed and the respondents are directed to give effect to the order dated 10.6.1991. The arrears, if any, shall be paid to the applicant within two months from the communication of this order. It is further directed that the pensionary benefits of the applicant shall be worked out on that basis and all the retiral benefits shall be paid to the applicant within a period of two months from the communication of this order. Since the applicant retired on 30.10.1992 the applicant will be entitled ^{to} ~~for~~ interest on the amount of arrears of pensionary benefits including gratuity at the same rate and in the same manner as per Railway Board letter dated 14.9.1984. No order as to costs.


(M.S. Deshpande)
Vice Chairman