

228
CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1434/95/199

Date of Decision: 15th Nov. 96

R.A. PATIL

Petitioner/s

MR. B.L. NAG

Advocate for the
Petitioner/s

V/s.

UOI & ORS.

Respondent/s

MR. R.K. SHETTY

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R. KOLHATKAR, MEMBER (A)

Hon'ble Shri

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

M.R. Kolhatkar
MEMBER (A)

trk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI 400001

O.A.No. 1434/95

DATED : 15th NOVEMBER, 1996

CORAM : Hon'ble Shri M R Kolhatkar, Member(A)

R.A.Patil
(By Adv. B.L. Nag)

..Applicant

V/s.

A. The Secretary to Govt of India
Ministry of Defence
South Block
New Delhi 110011

B. The Director General of EME
Directorate of General of EME
Master General of Ordnance Branch
Army Headquarters
New Delhi 110011

C. The Commander
Headquarters
Technical Group EME
Delhi Cantt.110010

D. The Officer-in-Charge
EME Records
Secunderabad 500021

E. The Commandant
512 Army Base Workshop
Kirkee, Pune 411003.

(By. Adv. R K Shetty,
Central Govt. Standing Counsel)

..Respondents

ORDER

=====

[Per: M R Kolhatkar, Member(A)]

1. The Applicant who is working as Tool Maker in the Machine shop with respondent No.5 has challenged the letter dated 19th September, 1995 from Respondents regarding the stagnation increments and a subsequent letter dated 18th October, 1995. A lawyer's notice u/s

80 of C.P.C.

was issued to the respondents. As the second letter covers both the grievances of the applicant the same is reproduced below:

"2. Your client Shri RA Patil had submitted an application for stepping up of his pay with that of his juniors T.No.5375 Shri D'Souza and T.No.5422 Shri GN Shinde as he was drawing less pay than the above named individuals. The case was thereafter referred to audit authorities for audit and onward transmission to Cadre Controlling Authority for sanction. The case was examined by them and they have intimated this workshop that pay of Shri RA Patil cannot be stepped up as per Govt. of India Min. of Def letter No.11(i)/86D(Civ-I) Vol.II dated 09 Nov 89 as they have been appointed in different category and date of appointment is also different. Shri RA Patil's case was also examined by Army Headquarters and they were also in agreement with the stand taken by the audit authorities. Shri RA Patil was also apprised of the above outcome vide this workshop letter No.20822/Est-Ind dated 03 Aug 93.

"3. As regards stagnation increment in respect of Shri RA Patil it is mentioned that Shri RA Patil is entitled for only one stagnation increment for the year 1977 as per CPRO 99/70 and not three increments as demanded by Shri RA Patil. Shri RA Patil has been intimated the above facts vide this Workshop letter No.20822/Est-Ind dated 19th Sep 95. Action is in hand to obtain sanction for waiving of the time barred claim for payment of one stagnation increment and on receipt of the same Shri RA Patil will be paid the arrears of the stagnation increment."

2. The respondents have opposed the O.A. In regard to the first grievance the respondents have stated that the applicant is entitled to one stagnation increment only in terms of CPRO No.99/70, or the Government of India, Ministry of Defence OM dated 10.7.90 according to which

RA

all Government employees who have been stagnating or may hereafter stagnate at the maximum of their pay scale for 2 years or more should be granted a personal pay equivalent to the rate of the increment last drawn by them in their existing scales. According to the respondents it is clear from a perusal of the above circular that notwithstanding the fact that the applicant had stagnated in the maximum of scale for a period of six years he cannot become entitled to three increments. In fact the applicant relied on the Government of India, Ministry of Finance OM No.7(44)/E-III/92 dated 31.3.94 but the same is applicable only to the Government employees who had opted for the CCS (Revised Pay Rules) Rules 1986 and reached the maximum of scale as on 1.1.1986, whereas the applicant has reached the maximum of the scale in the pre-revised scale i.e., Rs.350/= in the post of Turner under the IIIrd Pay Commission in 1977.

3. I have considered the matter. It is clear that in terms of CPRO 99/70 the applicant was entitled for only one stagnation increment and an interim relief was also granted to the applicant and in pursuance to the directions of the Tribunal the respondents have reported that the stagnation increment for the year 1977 has been taken into account while fixing the pay of the individual in the revised pay of Turner w.e.f. 16.10.1981. It

therefore appears to me that the stand of the respondent on the point of stagnation increment is in accordance with the Government orders applicable to the applicant and he is not entitled to any further relief.

4. So for as stepping up of pay is concerned, in para 2 of letter dated 18.10.95 the respondents have clarified their stand. The applicant has compared his case with two employees viz., D'Souza and G.N.Shinde. The respondents have contended that the case of the applicant is not comparable to that of Shinde because the applicant is holding the post of Tool Maker and Shinde is holding the post of Turner Highly Skilled Grade-I. So for as the comparison with D'Souza is concerned the respondents contend that here again the comparison is not proper as the said D'Souza is holding a different post viz., Medical Equipment Repairer and therefore the case does not attract provisions of F.R.22(c) and corresponding amended rule.

5. It appears to me, however, that the contention of the respondents that D'Souza and the applicant belong to different cadres is not correct. In this connection I have perused Annexure A-13 which sets out a comparative statement. From this it is clear that the applicant was appointed on 1.3.1961, whereas D'Souza was appointed on 31.12.1963 in the pay scale of Rs.110-155 and thus the applicant is senior to D'Souza. Both of them were

promoted on 15.10.1984 to the Highly Skilled Gr.II in the pay scale of Rs.330-480 and after implementation of the IVth pay commission the pay of the applicant was fixed at Rs.1410 as on 1.1.1986 and at Rs.1440 as on 1.10.86 and at Rs.1470 on 1.10.87 in the revised pay scale of Rs.1320-2040. Therefore the applicant was drawing Rs.1470/= with effect from 1.10.87. So for as D'Souza is concerned he was promoted as Highly Skilled Gr.II w.e.f.15.10.1984 in the pay scale of Rs.330-480 and his pay was fixed at Rs.1470/- with effect from 1.1.87 in the pay scale of Rs.1320-2040. Thus D'Souza who is junior to the applicant is drawing salary from 1.1.87 at Rs.1470/=. The contention of the respondents that they belong to different cadres is not correct as both the applicant and D'Souza were in the same grade viz., Rs.110-155 and on promotion as Highly Skilled Gr.II were in the scale of Rs.330-480 and on pay revision they were in the scale of Rs.1320-2040 and therefore both the applicant and D'Souza are drawing pay in the grade Rs.1320-2040 and therefore the conditions of FR 22(C) are squarely attracted.

6. I am therefore of the view that the applicant is entitled to stepping up of pay with reference to D'Souza w.e.f. 1.1.1987 when the anomaly first arose and I, therefore, direct the respondents to step up the pay of the applicant with effect from 1.1.1987 at Rs.1470 with that of D'Souza notionally and give him all the benefits

including arrears of pay the latter restricted to one year before filing of this O.A. i.e., 29.11.1994 as the O.A. was filed on 28 November 1995. The action should be taken within a period of three months. The O.A. therefore partly succeeds and is disposed of accordingly with no order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)

Member(A)

trk