

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

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O.A. NO. 759/92 : Date of order: 5.7.93

Roop Singh : Applicant.

Mr. Virendra Lodha : Counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.

Mr. U.D.Sharma : Counsel for the respondents.

CORAM:

HON' BLE MR. B. B. MAHAJAN, ADMINISTRATIVE MEMBER

HON' BLR MR. GOPAL KRISHNA, JUDL. MEMBER

PER HON' BLR MR. B. B. MAHAJAN, ADMINISTRATIVE MEMBER

Heard the counsel for the parties.

Mr. Roop Singh has filed this application under Section 19 of the Administrative Tribunals Act, 1985, against the orders dated 15.5.85 and 19.5.86 Annexures A-4 & A-5 respectively to the extent these deprived him of the arrears of pay and allowances for the period he had been given notional promotion. The applicant was appointed as IVth Class employee on 19.1.1961 by the Director Census Operation Rajasthan, Jaipur. He was appointed as a direct recruit to the post of Asstt. Compiler on 15.7.1970 on temporary basis, because he was fulfilling educational qualifications. He was reverted to the Class IVth post on 1.1.74. The applicant filed a Civil Suit against this reversion. The suit was dismissed. The appellate

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filed his appeal before the District Judge, Jaipur City, Jaipur. The appeal was allowed vide the Judgment dated 8.2.1979. The reversion order dated 31.12.1973 was quashed and it was declared that the applicant was entitled to the post of Assistant Compiler continuously since 31.12.1973 and was entitled to compensation for any loss caused to him till that date. The respondent filed an appeal against his judgment which was, however, dismissed by the Hon'ble High Court of Rajasthan, vide order dated 18.12.1985 (Annexure.A/2). Thereafter, by impugned order dated 15.5.85 (Annexure.A/4), which was amended by the impugned order dated 19.5.86 (Annexure.A/5), he was deemed to have been promoted notionally on the post of Computer w.e.f. 1.12.1977 and on the post of Statistical Assistant w.e.f. 28.7.1984. It had however, been stated in these orders that the period of notional promotion will be reckoned for the purpose of pay fixation but the applicant will not get arrears of pay and allowances for the period, he has been given notional promotion.

We have heard the learned counsel for the parties. The learned counsel for the applicant has argued that since the applicant had been wrongly reverted and has now been given his due promotion w.e.f. 1.1.77 as Computer and w.e.f. 28.7.84 as Statistical Assistant, he is entitled to the pay of those posts from the dates he has been notionally promoted. He has specifically drawn attention to the Judgment of the learned Additional District Judge, Jaipur dated 8.2.1979 (Annexure.A/1) in which it was

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s-tated that the applicant is entitled to compensation for the loss caused to him till the date of the order. The learned counsel for the respondents has argued that since the applicant had not performed the duties of the higher post for the period of his notional promotion, he was not entitled to the pay of higher post for that period. Hon'ble Supreme Court in A.I.R. 1974 SC 460 State of Mysore Vs. C.R.Seshadri has held that once a promotion is given to an employee with retrospective effect he is entitled for the arrears of pay. The learned counsel for the respondent has not cited any ruling to the contrary. We accordingly allow this application, quash the orders dated 15.5.86 (Annexure A.4) and 19.5.86 (Annexure A.5) to the extent they stipulate that the applicant will not get arrears of pay and allowances for the period he had been given notional promotion. The arrears on account of notional promotion from the dates of notional promotion till the date of actual promotion shall now be paid to the applicant within 4 months of this order. Parties to bear their own costs.

G.Krishna
 (GOPAL KRISHNA)
 Judl.Member

B.B. Mahajan
 (B.B.MAHAJAN)
 Adm.Member
