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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR.

O.A. No. 259/93

Date of decision: 13.9.93

S.S. PANWAR

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Applicant in person.

Mr. K.N. Shrimal : Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. B.B. Mahajan, Administrative Member

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

S.S. Panwar has filed this application U/S 19 of the Administrative Tribunals Act for allowing the benefit of two advance increments on his acquiring the qualification of Degree in Engineering w.e.f. 1-5-90.

2. The applicant was promoted as TES Group 'B' in May, 1964. He passed his Graduate Examination in Telecom. Engineering from Institute of Telecom. Engineering in 1965. As per orders issued by the Department of Tele-communications dated 11.7.90 (Annexure A-2), two advance increments in the respective grade are to be granted to those officers of TES Group 'B' who acquired a Degree in Engineering in various disciplines including Telecommunication. Vide order dated October, 90 (Annexure A-3), he was allowed two advance increments w.e.f. 1.5.90 but his pay was restricted and fixed at Rs. 4500/- (maximum of the grade). The prayer of the applicant is that he should have been allowed two advance increments instead of only one and the same should have been allowed from 1.5.90 and not from 14.7.90 actually allowed to him.

3. The respondents have stated in their reply that the applicant was drawing pay Rs. 4375/-. His pay was fixed at Rs. 4500/- which is maximum of the grade. They have also referred to the clarification issued by the Department of Tele-communications on 7.2.91, according to which, in case

of officials who are drawing pay at one stage below the maximum of the pay scale on 1.5.90, the advance increments were to be granted till they reach the maximum of the pay scale on 1.5.90. In regard to the date of increment, they have stated that the advance increment was actually allowed from 14.7.90 as the applicant was on commuted leave w.e.f. 19.3.90 to 13.7.90 and as per Rule no. 40 of CCS(Leave) Rules, 1972, only leave salary is admissible during leave.

4. The case was listed for disposal at the stage of direction today. We passed the case over in the pre-lunch session and it was fixed after the lunch to enable the learned counsel for the applicant to appear. However, the learned counsel for the applicant did not appear even after the lunch break. We have, therefore, heard the applicant and the learned counsel for the respondents.

5. The applicant has referred to the instructions of the Government of India, reproduced at serial no. 15 at page 130 under FR.26 in Swamy's Compilation of FRSR-Part-1 (11th Edition). According to these instructions, ~~in~~ cases of employees who have reached the maximum of the scale not in the normal course but by virtue of the grant of advance increments or premature increments as incentive for any reason would also come within the purview of orders regarding grant of stagnation increments and it is clarified that stagnation increments are granted on completion of every two years at the maximum of the grade. The applicant would also be entitled to the stagnation increments in accordance with those instructions on completion of two years if he has continued on the maximum scale even though the maximum was reached not in the normal course but by way of grant of <sup>increment</sup> incentive. Those instructions do not have any application to the present case as far as the question of grant of advance increment is concerned. The present case is squarely governed by the instructions contained in Department of

Telecommunications' order dated 7.2.91, reproduced under Para 6(1) of the reply filed by the respondents. The legality of these instructions have not been challenged. The pay of the applicant was thus correctly restricted to the maximum of the scale in accordance with those instructions. So far as the date of increment is concerned, the applicant was admittedly on commuted leave during the period 19.3.90 to 13.7.90. For this period, he was only entitled to leave salary which was, at the relevant time, admittedly based on 10 months' average salary before proceeding on leave. The question of allowing increment during the course of leave, therefore, do not arise. He had, thus, been correctly allowed advance increment on 14.7.90 when he returned from leave.

6. In view of the above, there is no force in the O.A. and the same is dismissed accordingly, with no order as to costs.

  
( B.B. MAHAJAN )  
Administrative Member

  
( D.L. MEHTA )  
Vice-Chairman