

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May 17/99
15/7

H.M. (A)
200

O.A. No. 211/99
J.A. No.

DATE OF DECISION _____

B.L.Tarwan

Petitioner

Mr.Nand Kishore

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr.S.K.Agarwal, proxy for Mr.Sanjay Pareek

Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman

The Hon'ble Mr. R.K.Upadhyaya, Member (A)



(R.K.UPADHYAYA)
MEMBER (A)

(G.L.GUPTA)
VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 12.08.03

OA 211/99

B.L.Tarwan s/o Shri Jagannath Prasad, presently appointed on the post of Temporary Sub Inspector under District Opium Officer, Bhilwara, working as Constable, Central Bureau of Narcotics, Preventive and Intelligence Cell, Jaipur.

... Applicant

Versus

1. Union of India through Secretary (Revenue), Department of Revenue, Ministry of Finance, North Block, New Delhi.
2. The Narcotic Commissioner of India, 19 Mall Road, Murar, Gwalior (MP).
3. Dy.Narcotic Commissioner of Rajasthan, Keshav Bhavan, Statim Road, Kota.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN
HON'BLE MR.R.K.UPADHYAYA, MEMBER (A)

For the Applicant

... Mr.Nand Kishore

For the Respondents

... Mr.S.K.Agarwal, proxy counsel
for Mr.Sanjay Pareek

O R D E R

PER MR.JUSTICE G.L.GUPTA

The relief claimed in the instant OA is to direct the respondents to immediately consider the case of applicant for promotion as per the scheme/circular dated 13.9.91 and give him promotion in situ to next higher scale of pay w.e.f. 1992-93 with all consequential benefits.

2. It is averred that the applicant was initially appointed as Sepoy on 3.7.71 in the respondents' office and since then he has been working in the department to the entire satisfaction of his superiors, yet he has not been granted even one promotion. It is further stated that the Government of India had circulated a scheme under letter dated 13.9.91 to give at least one promotion in service career to each Group-C & D employees. The applicant, it is stated, was entitled to have the benefit of the said scheme as he had not been given promotion on regular basis even after one year on reaching the maximum of the scale of the post he held. He made representation to the respondents and even personally met the authorities but no action was taken. Hence this OA.



3. In the reply, the respondents' stand is that promotion could be claimed by the applicant in the year 1992-93 and the present OA has been filed in 1999, which is liable to be dismissed as barred by limitation. It is stated that the Group-D employees of the Central Bureau of Narcotics were drawing pay in the pay scale of Rs.775-1025 w.e.f. 1.1.86 and no other pay scale was provided for them and the scale of Rs.825-1150 was provided for Group-C employees. It is stated that the Government provided the higher scale of Rs.800-1150 for Group-D employees of other departments but no such scale was provided for Group-D employees of the Narcotics Department, therefore, a reference was made on 24.2.95 for clarification. In the meanwhile, it is stated, the Ministry vide OM dated 7.5.95 revised the pay scale of Group-D employees and merged the scales of Rs.775-1025 and Rs.800-1150 into one scale i.e. Rs.775-1150 w.e.f. 1.4.95. It is also stated that the applicant was considered for promotion in the year 1994 but he could not secure higher marks and, therefore, he was not promoted and persons junior to him were given promotion to the post of Sub Inspector. It is further stated that in the event, the Government decides to implement the scheme w.e.f. 1.4.91 the benefit would be extended to the applicant. At the same time, it is stated that the applicant has already been given benefit of higher scale of Rs.775-1150 and he is not entitled for consideration for further higher scale.

4. In the rejoinder the applicant has reiterated the facts stated in the OA.

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. It is admitted position of the parties that the applicant, who is a Group-D employee, did not get promotion to the higher post till the date the scheme vide memorandum dated 13.9.91 was introduced. It is seen from the document (Ann.A/10), supplied by the respondents, that the applicant was in the pay scale of Rs.775-1025 and he was drawing Rs.1025/- on 1.1.92. He did not get increment thereafter because the maximum amount was Rs.1025/- in the scale. Therefore, he remained stagnated.

7. The scheme dated 13.9.91 says that if an employee does not get promotion on regular basis even after one year on reaching the maximum scale of such post, he will be allowed promotion in situ in the higher grade. Admittedly, there was no higher grade for Group-D employees of the Narcotics department and the applicant had stagnated for one year. It is seen that even the officers of the respondent department had referred the matter to the Ministry for clarification as to whether the next higher

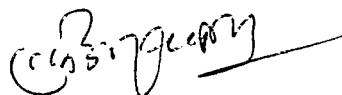


grade of Rs.825-1150 could be granted to the Group-D employees under the Scheme of 1991, but no reply was given by the Ministry. It may be that in the year 1995 the pay scale was revised and the two pay scales were merged in one scale of Rs.800-1150 w.e.f. 1.4.95 but that did not benefit the applicant who had reached on the maximum of Rs.1025/- on 1.1.92 itself and had stagnated. The merger of the pay scale, in our opinion, cannot be said to be promotion in the higher pay scale.

8. It is not understood as to why the benefit of next higher pay scale of Rs.825-1200, mentioned in para-2(d) of the memorandum dated 13.9.91, was not made applicable to the employees of Narcotics Department. The scheme was introduced for all the departments. No satisfactory reply was given by the learned counsel for the respondents as to how and by which communication the scheme excluded the Group-D employees of the Narcotics Department. In our opinion, the applicant was entitled to the scale of Rs.825-1200 in terms of the memorandum dated 13.9.91.

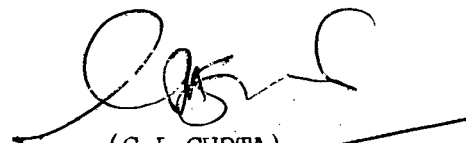
9. True it is, the applicant did not approach the court in time. However, the claim of the applicant is for fixation of pay, which is of recurring nature. It may be that the applicant is not allowed actual benefit of the higher pay for a period of beyond one year of the filing of the OA but he is certainly entitled to have his pay refixed in the higher pay scale of Rs.825-1200 in terms of the memorandum dated 13.9.91.

10. Consequently, this OA is allowed. The respondents are directed to consider and pass appropriate order in respect of the applicant for the grant of higher pay scale of Rs.825-1200 in terms of the memorandum dated 13.9.91 within two months from the date of communication of this order. The applicant shall however get the actual financial benefit w.e.f. 6.5.98 only. No order as to costs.



(R.K.UPADHYAYA)

MEMBER (A)



(G.L.GUPTA)

VICE CHAIRMAN