

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 96/1998 of

14.12.2000
DATE OF DECISION

Shri Monjit Narayan Deka
----- PETITIONER(S)

Mr. M.Chanda.
----- ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.
----- RESPONDENT(S)

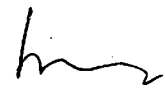
Mr. A. Deb Roy, Sr. C.G.S.C.
----- ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. M.P.SINGH, MEMBER (A).

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

Judgment delivered by Hon'ble Vice-Chairman.



9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application 96 of 1998.

Date of decision : This the 14th day of december, 2000.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Sri M.P.Singh, Member (A).

Shri Monjit Narayan Deka,
Assistant Superintendent
National Sample Survey Organisation
(Field Operations Division),
Malow Ali,
Jorhat-785001.

...Applicant.

By Advocate Mr. M.Chanda.

-versus-

1. Union of India
Represented by Secretary,
Department of Statistics,
Ministry of Planing, West Block No.8,
Wing No.6, R.K. Puram,
New Delhi-66.
 2. The Director,
National Sample Survey Organisation
(Field Operations Division),
"C" Block, 3rd Floor, Pushpa Bhavan,
Madangir Road, New Delhi-62.
 3. The Deputy Director
National Sample Survey Organisation
(Field Operations Division)
Prag TEa Building,
Ganeshguri, Dispur,
Guwahati-5.
 4. Sri M.L.Chakraborty,
Assistant Superintendent,
National Sample Survey Organisation,
Silchar
- ...Respondents

By advocate Mr. A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The issue relates to stepping up of pay in conformity with F.R. 22-C has arisen in the following circumstances. By order dated 16.10.1987 the applicant alongwith others was promoted as Assistant

Contd...

Superintendent on regular basis. On his promotion the applicant was posted at Chandigarh to which post the applicant joined on the strength of the order dated 18.11.1987. The respondent No.4 was also promoted alongwith the applicant by the same order and the name of the respondent No.4 appeared below the applicant in said list. The grievance of the applicant is that the applicant as well as respondent NO.4 were in the same pay scale of Rs. 330-560 (Subsequently revised to Rs. 380-680) in the initial cadre of Investigator. The respondent No. 4 joined at Jorhat following the office order dated 22.3.1988. Though the respondent no. 4 joined subsequently to the post of Assistant Superintendent but as a result of application of FR 22 C, the respondent no.4 on promotion to the post of Assistant Superintendent in the higher scale of pay of Rs. 1600-2600, started receiving more pay than that of the applicant who was senior to the respondent no.4 in both the cadre of Investigator as well as Assistant Superintendent. The pay of the respondent no.4 was fixed at a higher point in the promotional post as per his option exercised under FR 22(a) (I) which was refixed on the basis of the provision of FR 22C on the date of accrual of next increment. Discovering the anomaly after the applicant returned from Chandigarh to Jorhat the applicant submitted his representation dated 21.2.1995 narrating his grievances and prayed for stepping up his pay at par with his junior i.e. respondent no.4. The respondents by its memo dated 17.12.1997 rejected the claim of the applicant on the ground that anomaly had occurred due to exercise of option by the respondent

Contd...

no.4 at the time of promotion. The said scope was also available to the applicant since the applicant failed to give any option his case could not be taken up for stepping up of pay. According to the respondents the process of stepping up could not be automatic, it could only be done only on receipt of option of a person concerned. Failing to get any remedial measure the applicant moved this Tribunal by filing this O.A. challenging the action of the respondents as arbitrary.


2. The respondents filed its return and submitted that the applicant was not entitled for stepping up of pay due to non-submission of option as per the Govt. circular. His junior exercised his option within one month for the date of promotion since the applicant did not exercise his option naturally his case was not considered and the case of the applicant is not covered by the Govt. of India's order (23) under FR 22 for stepping up of pay.

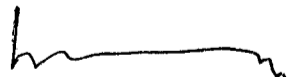
3. During the course of hearing Mr. M. Chanda, learned counsel appearing on behalf of the applicant submitted that giving of option was not an essential requisite. The Rules contemplated for exercising option provided the promotion order was so signified. The promotion order did not provide any such manifestation for exercising option. Mr. A. Deb Roy, learned Sr. C.G.S.C. referred to its affidavit and cited two communications dated 11.12.87 by which the Director issued the Office Order to inform the official concerned for exercising option within one month from the date of regularisation/ promotion as the case may be, in terms of para 2 (b) of the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) O.M dated 26.9.1981. Mr. A. Deb Roy also referred

to O.M. No. 1/2/87-Estt (Pay.I) dated 9.11.1987. We have perused the aforementioned communication, the office order dated 11.12.1987 was an order asking the concerned authorities mentioned in the order for eliciting the informations to person concerned. No such material were made available before us establishing the fact that the applicant was ever intimated for giving option. The applicant's representation dated 31.10.1995 itself indicated about the option of the applicant. The communication sent by the Deputy Director addressed to the Director vide Memo No. 2(1)/Estt-I/ASM/97/6780 dated 26.9.97 also communicated about the option given by the applicant. Be that as it may, we are of the opinion that the respondents was not justified in turning down the prayer for stepping up of the pay of the applicant.

4. Considering all the aspects of the mater and upon hearing the learned counsel for the parties we are of the view that the respondents are required to reconsider afresh the matter, accordingly we direct the applicant to submit a formal option within one month from the date of eceipt of the certified copy of this order. On receipt of the same the respondents shall take appropriate measures as per rule for stepping up of the pay of the applicant and remove the anomalies preferably within two months thereafter.

5. With the directions made above, the application is disposed of. There shall, however, be no order as to costs.


(M.P.SINGH)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman