

30/100
V
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No...7.3/2004.....

R.A/C.P No.....

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org.App/ Misc.Petn/Cont.Petn/ Rev.Appl. OA 73/2004
In O.A.

Name of the Applicant(S) R N Mazumdar

Name of the Respondent(S) ND Jam

Advocate for the Applicant A. Lodh

Counsel for the Railway/ C.G.S.C. CSC

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

This application is in form
is filed/C. F. for T.S. 10/-
d. posited w.c. p. 127
No. 3785 & 7
Dated..... 24.3.04.....

25.3.04

Heard Mr.A.Lodh, learned counsel
for the applicant.

This application has been filed/
clarification of the judgment and order dated
16.9.2002 passed in O.A.196 of 2002 by
fixing a stipulated period to comply
with the directions contained therein.

On perusal of the O.A. and upon
hearing the parties, I direct the res-
pondents to implement the judgment and
Order dated 6.9.2002 passed in O.A.
169/2002 within three months time from
the date of receipt of this order.

With this, the O.A. is disposed
of.

28.3.04

copy of the order 22
25.3.04 handed over to
the R. Casse. for the Regd.

bb

lcv *Dhankar*
Member (A)

68

Aug 30/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 4 MAR 2002
GUWAHATI BENCH

गुवाहाटी बेंच
Guwahati Bench

O.A. No. 73 /2004

SYNOPSIS/LIST OF DATES

Sri Rajat Nandi Mazumdar Applicant
Vs.

Union of India & Ors. Respondents.

Date : Petition filed an application
being No. 196 of 2002 against
Respondents for granting him
pay scale of Rs. 5000-8000/-

6.9.2002 The Hon'ble CAT, Guwahati
Bench passed an order observing
that the petitioner is entitled : ANNEXURE 1
to get the benefit of the pay : Page-9.
scale of Rs. 5000-8000/-, But
there is no time limit in the
order. So, the Respondents are
not implementing the order.
Petitioner prays for giving
a fixed date for complying
the order.

24 MAR 2000

Guwahati Bench

4
A. Rajat Nandi Majumder
Advocate
24.03.2004

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

CASE NO. ORIGINAL APPLICATION NO. 73/2004.

Sri Rajat Nandi Majumder,

S/O Sri Pritesh Kanti Nandi Majumder,

Now working as Radio Technician,

Custom(P) Division, Office of the

Assistant Commissioner, Agartala.

..Applicant.

versus

1. The Union of India,

(Through the Secretary,

Department of Revenue,

Government of India, New Delhi.)

2. The Commissioner of Customs,

North Eastern Region,

Morelly Compound,

Shillong-793001.

3. The Commissioner of Central Excise,

North Eastern Region,

Morelly Compound,

Shillong-793001.

Rajat Nandi Majumder

..Contd-P/2.

2 :-

4. The Assistant Commissioner(HQRS)
Customs & Central Excise,
Morello Compound,
Shillong-793001.

..Respondents.

DETAILS OF APPLICATION

1. PARTICULARS OF ORDER AGAINST WHICH THE APPLICATION IS MADE:-

i) Order No. : Original Application No.
196/2002.

ii) Date : 6/9/2002.

iii) Passed by : ~~THE HON'BLE ADMINISTRATIVE TRIBUNAL~~

2. JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the order, clarification of which is sought for was passed by this Hon'ble Tribunal and as such this Hon'ble Tribunal has the jurisdiction to entertain this present application.

3. LIMITATION:

The Applicant further declares that the present Original Application is within the prescribed period of limitation of the Administrative Tribunal's Act, 1985.

Rajat Kandli Majumder

..Contd-P/3.

Shillong
K. Arindam Bhattacharjee

-: 3 :-

4. FACTS OF THE CASE:

The Applicant above named most humbly begs to submit as follows:-

(1) That the Applicant is a Radio Technician appointed under the Respondent No.3 on 24/1/1997 in the pay scale of Rs.1400-40-1800-EB-50-2300/- on the basis of the Application filed by the Applicant pursuant to the advertisement No.C.No.II(3)10/PT/1195 dated 7/12/1995. He was appointed in the grade of Radio Technician on the criteria of having diploma in Electronics & Communication Engineering.

(2) That the Applicant claim ^{of} benefit for the revised scale of pay of Rs.5,000/- - 8,000/- on the basis of the recommendation of the 5th Pay Commission w.e.f. 27/1/1997. Since the Respondents were not giving the benefit of the revised pay scale Applicant approach this Hon'ble Tribunal in Original Application No.196/2002.

(3) That the Hon'ble Tribunal after hearing both sides passed the following order:

"We have carefully perused the contentions made on behalf of the Applicant and also submission made on behalf of the Respondents. We have also per-

Rajat Khanda Majumder

..Contd-P/4.

Mr. Pramod K. Ghosh

S
By: Prinam Singh
Advocate

-: 4 :-

used the order of Principal Bench relied by the Applicant. In that case the Radio Technician of Police Wireless Department who were in the scale of pay Rs.1600 - 2600/- were given the scale of Rs.5000 - 8000/-. The Applicant was appointed in the scale of Rs.1400 - 2300/- and continued to be in the same scale. Only the scale of Radio Operators (Operations system) as per communication dated 1.1.98 of the Department of Customs, Ministry of Finance (Annexure to the written statement) was revised to the scale of Rs.4500 - 7000/- from Rs.1320 - 2040/-. It is seen that the Applicant was not appointed as Radio Operator (Rs.1320 - 2040) but was appointed as Radio Technician (Rs.1400 - 2300). In the circular dated 1.1.98 filed with the written statement no scale is given for tele-Radio Technician but it is seen that the Supervisor (operations system) who was in the scale of Rs.1400 - 2300 was given the scale of Rs.5000 - 8000/-. If the corresponding scale of Rs.1400 - 2300 is Rs.5000 - 8000, the Applicant would be entitled to this scale. As the Applicant is not a Radio Operator, the pay scale of Radio operator is not applicable to him. The applicant falls in a different category. It appears that the claim of the applicant has not received due attention. The applicant had made a repre-

Rajat Nandi Majumdar

..Contd-P/5.

8

S. A. Majumdar
Advocate

-: 5 :-

sentation dated 17.5.2001 which has not been replied.

We are of the view that the Respondents should re-examine the Applicants claim and give him the appropriate scale applicable to his post.

(4) That the Applicant most humbly submits after passing of the Judgment by this Hon'ble Tribunal on 6/9/2002 the Respondents were not re-examining the case of the Applicant and hence the Applicant submitted representation praying inter alia to implement the order of this Hon'ble Tribunal dated 6/9/2002 but till date that has also not been disposed of by the Respondents.

(5) That the Respondents are willfully and deliberately flouting the order of this Hon'ble Tribunal as there is no stipulation of time is made by this Hon'ble Tribunal for carrying out, implementation of the direction passed by this Learned Tribunal

(6) That this being the position the Applicant approaches this Hon'ble Tribunal for clarification to the effect that the order dated 6/9/2002 is to be carried out/implemented by the Respondents within a period as may be determined by this Hon'ble Tribunal

Rajat Almudi Majumdar

.. Contd-P/6..

*Mr. Amodi Maymudar
Advocate*

in the alternate the Applicant will suffer irreparable loss.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

i) The Applicant most humbly submits that although this Hon'ble Tribunal was pleased enough to allow the original application No.196/2002 the Respondents taking the advantage that there is no time stipulation for implementation of the order dated 6/9/2002, is not considering the case of the Applicant and as such represent original application is being filed.

6. DETAILS OF REMEDIES EXHAUSTED:

The Applicant has made an application for consideration of the case of the Applicant in the light of the Judgment of this Hon'ble Tribunal dated 6/9/02 vide the Applicants representation dated 13th November, 2002.

7. MATTERS NOT PREVIOUSLY FILED WITH ANY OTHER COURT OR PENDING WITH ANY OTHER COURT:

The applicant further declared that he has not filed any other application before any competent Court or Writ petition or suit after the order passed

Rajat Amodi Maymudar

..Contd-P/7.

R. Primalay Gold Advocate
-: 7 :-

by this Hon'ble Tribunal dated 6/9/2002 and no such application is pending before any other bench of the Tribunal.

8. RELIEF SOUGHT FOR:

In view of the facts mentioned above the Applicant respectfully prays that this Hon'ble Tribunal may be pleased to-

i) Clarify the Judgment and order dated 6/9/02 passed in Original Application No. 196/2002 be clarified to the extent that the said order dated 6/9/2002 to be complied with by the Respondents within a stipulated period, which may be fixed by this Hon'ble Tribunal for the ends of justice.

ii) to pass such other order as may be deemed fit and proper.

9. INTERIM ORDER, if any prayed for: NO.

10. In the event of application being sent by the registered post it may be stated whether the applicant desired to have early hearing at the admission stage and if so they shall attach a self attested post-card or inland letter at

Rajat Kandi Majumder

..Contd-P/8.

Mr. Prindam Bhattacharjee
-: 8 :-

which intimation regarding the date of hearing would be send to him :

11. PARTICULARS OF POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE :

- i) Name of the Post Office : GPO, SMT -
- ii) No. of Postal Orders : 378562
- iii) Date : 24-3-09
- iv) Post Office at which payable.

12. LIST OF ENCLOSURES :

VERIFICATION

I, Sri Rajat Nandi Majumder, S/O. Shri P.K. Nandi Majumder, aged about 30 years, Employed as Radio Technician, Office of the Asst. Commission^{er} of Customs, Agartala, Tripura West do hereby verify that the contents of the above paragraphs are true to my personal knowledge and are believed to be true on legal advice and that I am not suppressed any materials acts.

Place : Agartala,

Date :

Rajat Nandi Majumder
SIGNATURE OF APPLICANT.

To
The Registrar
Central Administrative Tribunal,
Gauhati Bench, Gauhati

ANNEXURE-1

R-9

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 196 of 2002.

Date or Order: This the 6th Day of September 2002.

HON'BLE MR. D. N. CHOUDHURY, VICE-CHAIRMAN

HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER

Shri Rajat Nandi Majumdar

S/O Shri P. K. Nandi Mazumdar

Now working as Radio Technician,

Communication Wing, Custom(P) Division,

Department of Customs & Central Excise,

Agartala.

... Applicant

By Advocate Mr. M. Chanda, Mr. G. N. Chakraborty,

Mr. H. Dutta.

-Vs-

1. The Union of India

(Through the Secretary,

Department of Revenue,

Government of India,

New Delhi.

2. The Commissioner of Customs,

North Eastern Region,

Morello Compound,

Shillong-793001.

3. The Commissioner of Central Excise,

North Eastern Region,

Morello Compound,

Shillong-793001.

4. The Astt. Commissioner(HQRS)

Customs & Central Excise,

Morello Compound,

Shillong-793001.

... Respondents.

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

O R D E R.

K. SHARMA, ADMINISTRATIVE MEMBER:

The applicant has claimed the benefit of grant of revised scale of pay of Rs. 5000-8000/- to the applicant on the basis of recommendation of the 5th Pay Commission with effect from 27.1.1997.

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 2. The applicant was appointed as Radio Technician under the Respondents on 27.1.1997 in the scale of Rs. 1400-2300/-. It is stated that the 5th Pay Commission in para 50.23 and 50.24 recommended the revised pay scale of Rs. 5000-8000/- to all Diploma Engineers. The applicant has passed 3 years Diploma course. It is stated that on the basis of 5th Pay Commission recommendation the scale of Diploma holders Radio Technician was revised to Rs. 1600-2660 and to corresponding revised scale of pay to Rs. 5000-8000/-. The pay scale of Radio Technician in other departments of the Government of India has been revised of Rs. 5000-8000/-. The applicant has relied on the order of C.A.T.(PB) in O.A.Nos. 1003, 1004, 1005 and 1007 of 2000, dated 08.11.2000 in support of his claim for the scale of Rs. 5000-8000/-. This order was in respect of Radio Technicians working in the department of Police Wireless under the Ministry of Home Affairs. The applicant made representation to the respondents on 17.5.2001 but reply has not been received. Hence this application.:-

3. Mr. M. Chanda learned counsel appearing on behalf of the applicant argued that the applicant has passed three years Diploma Course and he is eligible to get the revised scale of pay Rs. 5000-8000/- as per recommendation of the Pay Commission in the light of paras 50.23 and 50.24.

4. Mr. A. Deb Roy, Sr.C.G.S.C. appearing on behalf of the respondents referred to the written statement and submitted that as per communication dated 1st January, 98, Department of Revenue, Ministry of Finance the Department of Customs and Central Excise revised the pay scale of Radio Operator was revised to Rs. 4500-7000/-. The recommendation of the 5th Pay Commission made in paras 50.23 and 50.24 pertain to the demand made by Technical Group of staff working under Administrative Ministries/Departments. The recommendation in these paras cannot be applied to Radio Technician working under Telecommuni-

contd/-

cation Wing of the C.E.E.C. The relevant recommendation pertaining to the applicant's department are contained in Paras 66.136 to 66.147 of the Pay Commission's Report. It is argued that on the recommendation contained in Paras 66.141 and 66.142 of the Fifth Pay Commission, the pay scale of Radio Operators was revised to Rs. 4500-7000/-. Therefore, claim for the Radio Technician's to the revised scale of pay Rs. 5000-8000/- cannot be accepted. According to Mr. A. Webb Roy, Sr.C.G.S.C. the application is liable to be dismissed.

5. We have carefully perused the contentions made on behalf of the applicant and also submissions made on behalf of the respondents. We have also perused the order of Principal Bench relied by the applicant. In that case the Radio Technician of Police Wireless Department who were in the scale of pay Rs. 1600-2600/- were given the scale of Rs. 5000-8000/-. The applicant was appointed in the scale of Rs. 1400-2300/- and continued to be in the same scale. Only the scale of Radio operators(operations system) as per communication dated 1.1.98 of the Department of Customs, Ministry of Finance(Annexure to the written statement) was revised to the scale of Rs. 4500-8000) from Rs.1320-2040. It is seen that the applicant was not appointed as Radio Operator (Rs. 1320-2040) but was appointed as Radio Technician (Rs. 1400-2300). In the Circular dated 1.1.98 filed with the written statement no scale is given for Radio Technician but it is seen that the Supervisor(operations system) who was in the scale of Rs. 1400-2300 was given the scale of Rs. 5000-8000/-. If the corresponding scale of Rs. 1400-2300 is Rs. 5000-8000, the applicant would

contd/-



Usha

be entitled to this scale. As the applicant is not a Radio Operator, the pay scale of Radio Operator is not applicable to him. The applicant falls in a different category. It appears that the claim of the applicant has not received due attention. The applicant had made a representation dated 17.5.2001 which has not been replied. We are of the view that the respondents should re-examine the applicants claim and give him the appropriate scale applicable to his post.

Subject to above observation the application is allowed to the extent indicated above. There shall be no order as to costs.



Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

TRUE COPY

প্রতিপিক্ষি

26/9/01

Section Officer (D)
Assam Administrative Tribunal
Assam Administrative Tribunal
Guwahati Branch, Guwahati
প্রতিপিক্ষি প্রতিপিক্ষি