

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMP AT BILASPUR

Original Application No. 203 of 2002

Bilaspur, this the 10th day of September, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Shri Maniklal Karmakar, son of
Shri S.N.Karmakar aged 41 years,
R/o 3/55, Jhanda Chouk, Laxmi Nagar,
Raipur(C.G.) 492 001

APPLICANT

(By Advocate - Ms. Sharmila Singhai)

VERSUS

1. Union of India,
Ministry of Finance,
Department of Economic Affairs,
Through Additional Secretary,
(Budget Division),
New Delhi.
2. National Savings Commissioner,
4th Floor C.G.O. Complex,
"A" Block, Seminary Hills,
Nagpur(MAH)440 006
3. The Regional Director,
National Savings(Govt. of India)
33, Anand Nagar,
Raipur(C.G.) 492001

RESPONDENTS

(By Advocate - Shri Om Namdeo)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the following main reliefs :-

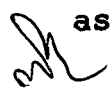
"(i) to set-aside the order dated 15th November, 1999, (Annexure A/9) and the respondents may kindly be directed to place the applicant in the scale of pay of Rs.5000-150-8000/-.

(ii) to direct the respondents to remove the anomaly by placing the applicant in the scale of pay of Rs.4000-100-6000 and or/set-aside the memorandum dated 13.10.1998(Annexure A/7)."

2. The brief facts of the case are that the applicant was initially appointed as Veterinary Stockman in Dandakaranya Development Authority (for short 'DDA') with effect from 2.6.1979 (Annexure-A-1(a)). He was rendered surplus. As such vide order dated 5.3.1986 (Annexure-A-2) he was redeployed as Lower Division Clerk in the Office of Regional Director, National Savings(GOI), M.P. East Region, Raipur. The applicant

has contended that as he was working in the pay scale of Rs.975-1540 in the DDA, his pay in the National Savings Organisation was fixed in the said scale of Rs.975-1540, although the scale of LDC is Rs.950-1500/-. He exercised his option under explanation 3 of Rule 5 of CCS(Revised Pay) Rules, 1987. The applicant has further contended that as per the recommendations of the Fifth Pay Commission, the applicant's pay was to be fixed in the scale on which he was holding the substantive post and, therefore, he was entitled for fixation in the pay scale of Rs.4000-6000. Vide order dated 30.12.1997 the applicant's pay was fixed in the revised scale of Rs.4000-6000. He was also granted the annual increment of the said scale. However, the respondents without granting him an opportunity of hearing down-graded the scale of the applicant from Rs.4000-6000 to Rs.3200-4900 (Annexure-A-7). The applicant also submitted a representation for grant of ACP promotion in the scale of Rs.5000-8000. The respondents vide their order dated 15.11.1999 (Annexure -A-9) has granted him the 1st financial upgradation in the pay scale of Rs.4000-8000. Hence he has filed this OA.

3. The respondents in their reply have stated that the applicant was appointed as LDC on redeployment in the scale of pay of Rs.975-1540 by protecting his basic pay. His pay fixation was also done w.e.f. 1.1.1996 in the corresponding scale of pay of Rs.3200-4900 as per recommendations of the 5th CPC. They have further submitted that the applicant was appointed in the pay scale of Rs.975-1540 as Veterinary Stockman (Junior) on purely adhoc basis in his earlier department and he was never confirmed on the post of Veterinary Stockman. The respondents have contended that the L.D.Cs. in their department were placed in the scale of pay of Rs.950-1500, As per the recommendations of 5th CPC, the applicant has rightly been allowed the corresponding scale of pay of Rs.3200-4900 and he is not entitled for higher scale of pay. According to them, the applicant is neither functioning as Stockman in respondent-department, nor such a technical post



is available in their department. They have further submitted that some mistake had been committed due to over sight but ^{13.10./} the same has been rectified by issuing order dated 9.11.1998 (Annexure -A-7). According to them, the applicant was working as LDC and is not eligible for 1st financial upgradation in the scale of Rs.5000-8000 which is the 2nd financial upgradation for LDCs having put in a regular service of 24 years. The grant of first financial upgradation to the applicant in the UDC's scale of pay of Rs.4000-6000 is perfectly in order. Hence they have stated that OA deserves to be dismissed.

4. Heard the learned counsel of both parties.

5. We have given careful consideration to the arguments advanced on behalf of both the parties. We find that the applicant was working as Stockman in the scale of pay of Rs.260-430 in the substantive capacity w.e.f.29.9.1983. as is evident from Annexure-A-11 to rejoinder in DDA. Accordingly on his redeployment in the National Savings Organisation his pay was protected and he was granted the pay scale of Rs.975-1540. His pay was fixed in the pay scale of Rs.4000-6000. He was also granted the increment in the same scale. The applicant has contended that as per the recommendations of the 5th CPC, his pay had to be fixed in the scale on which he was holding the substantive post and his pay could not have been reduced by the respondents, without giving any opportunity ^{of hearing} to him. In this context he has relied on the decision of Hon'ble Supreme Court in the case of Shri L.N.Keshri & ors Vs. Union of India & ors, (1975) 3 SCC 1.

6. It is an admitted fact that the respondents have not given any notice before refixing the pay of the applicant in the pay scale of Rs.3200-4900 vide impugned memorandum dated 9.11/13.10.1998 (Annexure-A-7). Therefore, without going into the merits of the case, we direct the applicant to submit a detailed representation to the respondents within a period of 15 days from the date of receipt of this order. If the applicant complies with this order, the respondents are directed to decide the same

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by passing a speaking, detailed & reasoned order within a period of three months from the date of representation. and communicate the same to the applicant promptly. If the applicant feels still aggrieved, he will be at liberty to approach the Tribunal.

7. In the result, the OA is disposed of with the above directions. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

प्रमाणित सं ओ/व्या.....जबलपुर, दि.....
प्रतिलिपि जारी किया:-

(1) मजिस्ट्रेट, जन अभिलेख घर एडोप्टेशन, जबलपुर

(2) जज, जज की पीठ/पु.....के कार्डरल Suit. S. Mevan

(3) जज की पीठ/पु.....के कार्डरल

(4) जज, जज की पीठ, जबलपुर नगरपालिका

सूचना एवं आदेशों को कार्डरल के

उप निदेश

Issued
on 13.9.04
BS