

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 532 of 2001

Jabalpur, this the 5th day of October, 2004

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

S.P. Dutta S/o Late K.C. Dutta, aged
52 yrs Supervisor (Stores) Vehicle Factory
Jabalpur, Section Store, Per.No. 06985
residence of 128, Chandan Colony, Ranghi,
Po: Khamaria, Jabalpur, M.P.

APPLICANT

(By Advocate - Shri  K. Dutta)

VERSUS

1. Union of India, through The Secretary
Ministry of Defence (Department of
Production). New Delhi.
2. The Chairman
Ordnance Factory Board,
10/A, Shaheed Khudiram Bose,
Road, Kolkata, West Bengal.
3. The General Manager,
Vehicle Factory Jabalpur,
Po: Vehicle Factory, Jabalpur

RESPONDENTS

(By Advocate - Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member -

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

"1) to quash the rejection letter Annexure A/1(a)
and further be pleased to direct the respondents
to fix the pay of the Applicant at par with his
juniors like Shri Parekar, or S.P. Dutta and
others as cited in the application or Annexure-A/5
with full arrears of pay and consequential benefits."

2. The brief facts of the OA are that the applicant
at present is working on the post of Supervisor (NT) (Store).
He was promoted from Store Keeper to the present post of
Supervisor vide order dated 31.7.1979. Along with the same
promotion order at serial No. 9 one Shri V.K. Paretkar was
also promoted. On recommendation of the Vth CPC the pay of
the applicant was fixed at Rs. 5,000/- as on the date of
1.1.1996. Identically same pay scale was granted to Shri
V.K. Paretkar. The next date of increment in the case of the



applicant was fixed on 1.7.1996 and in the case of Shri Paretkar on 1.8.1996. One Shri S.P. Dutta and the applicant both are working in the same store section of the factory. Because of similarity in the name and section often errors used to happen. Now the pay of the junior S.P. Dutta under the Vth CPC was fixed at Rs. 4900/- on 1.1.1996 and his next increment was given on 1.4.1996. Shri Paretkar's increment date is after the applicant and the other S.P. Dutta is junior in appointment as Supervisor to the applicant. The respondents vide order dated 9.12.1999 granted second financial upgradation under the ACP scheme to the applicant with effect from 9.8.99 in the pay scale of Rs. 5000-8000/-. The name of the applicant is at serial No. 41 and of Shri V.K. Paretkar and Shri S.P. Dutta is 39 and 46 respectively. The respondents have published the refixation of pay factory order with the subject caption as Revision/Fixation/Refixation of pay under CCS(RP) Rules, 1997. In this order Shri Paretkar's pay has been fixed at Rs. 5200/- on 1.8.96 whereas he was at the pay scale of Rs. 5100/- at the time of CCS(RP) Rules, 1997 pay fixation on 1.8.1996. After allowing the benefit of ACP(2) his pay was fixed at Rs. 5750/- as on 9.8.1999 in the ACP pay scale of Rs. 5000/-. Similarly, junior S.P. Dutta's pay also has been fixed at Rs. 5200/- and on 1.4.1997/subsequently again refixed as per ACP scheme to Rs. 5450/- on 9.8.99 in the pay scale of Rs. 5000/-8000/- with the next date of increment on 1.4.2001. Whereas the pay scale granted to the applicant after the same ACP benefit was at Rs. 5600/- as on 9.9.1999 in the upgraded ACP pay scale of Rs. 5000-8000/- and the date of next increment will on 1.8.2000. The applicant thus has been fixed at much below in comparison to Shri Paretkar and the juniors of the applicant name other S.P. Dutta. The applicant represented the matter to the respondents but was of no heed. The respondents declined to entertain the grievances of the

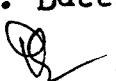


applicant only on the plea that the option form was not in their custody thus stating that the applicant did not opt^{ed} and which is totally wrong/the applicant has also opted as others, the same might have been misplaced/ or there may be some misunderstanding with the other S.P. Dutta and it might be that two option form of same S.P. Dutta has been received in the office of the respondents and one has been thrown away. The applicant is not in a position to submit any copy of the option form or any receipt of the same/^{as}has been given by the factory authorities.


3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that apparently Shri Paretkar and Shri S.P. Dutta were juniors to the applicant. The applicant also submitted his option in due time but it was missing from the office of the respondents due to some mis-understanding with the other S.P. Dutta and on receipt of two option forms of S.P. Dutta one might have been thrown away. The applicant is not in a position to file any receipt or photo copy of the same. His grievances should not have been declined by the respondents on this ground. Thus the action of the respondents is unwarranted and the relief claimed by him should be granted to him.

5. In reply the learned counsel for the respondents argued that the applicant was granted the 2nd ACP under Financial upgradation in the pay scale of Rs. 5000-8000/- w.e.f. 9.8.1999 on completion of 24 years of service and his pay in the upgraded scale was fixed at Rs. 5600/- per month w.e.f. 9.8.1999 with date of next increment on 1.8.2000. Similarly, the other two employees i.e. Shri V.K. Paratkar and shri S.P. Dutta as referred by the applicant in the OA




have also opted to fix their pay in the revised pay scale of Rs. 4000-6000/- from 1.1.1996 and their pay was accordingly fixed as is shown in para (c) of para 1 in the reply filed by the respondents. Subsequently the Ministry of Finance, Deptt. of Expenditure vide OM dated 30.7.1999 circulated vide MOD ID dated 8.9.1999 has given fresh opportunity to employees to come over to the revised pay scale under CCS(RP) Rules, 1997 from a date of their increment falling after 1.1.1996 but not later than 31.12.1997 and ^{if} they so desire, to submit ^{to} fresh option/that effect within three months from the date of the order. Accordingly, the respondent No. 2 published the above order and invited fresh option from the employees working under him so as to reach the option of such of the employees to Establishment/IB Section, as the case may be, not later than 29.1.2000. The option once exercised shall be final. According to the above revised orders both Shri V.K. Paratkar and Shri S.P. Dutta exercised fresh option to come over to the revised pay scale and to fix their pay in the revised pay scale under CCS(RP) Rules, 1997 on a date subsequent to their increment after 1.1.1996 and their pay was re-fixed as provided in para (e) of para 1 of the reply filed by the respondents. The applicant although had been given a fresh opportunity to re-fix his pay on a date subsequent to 1.1.1996 as opted by others in accordance with the above Govt. instructions, failed to exercise fresh option to that effect and the pay fixed in his case as earlier is the final one which cannot be revised under any circumstances. Thus he is happened to draw less pay than his juniors as he himself is responsible for this situation because of his failure to submit fresh option to re-fix the pay under CCS (RP) Rules, 1997 when called for. The applicant failed to exercise the fresh option to re-fix his pay under the CCS(RP) Rules, 1997 on a date subsequent to 1.1.1996 but not later than 31.12.1997. The applicant failed to substantiate his



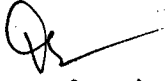
claim by submitting any proof to the effect that he has exercised fresh option like others and to prove that it is the mistake of the respondents who failed to record the same. Therefore, there is no substance to make allegations in this regard. Hence, the applicant is not entitled for any relief claimed by him.

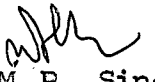
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the Ministry of Finance, Deptt. of Expenditure vide OM dated 30.7.1999 circulated vide MOD ID dated 8.9.1999 as published in Factory order No. 682, dated 7.12.1999 has given fresh opportunity to employees to come over to the revised pay scale under CCS(RP) Rules, 1997 from a date of their increment falling after 1.1.1996 but not later than 31.12.97 and if they so desire, to submit fresh option to that effect within three months from the date of the order. The respondent No. 2 published the same and invited fresh option from the employees working under him so as to reach the option of such of the employees to Establishment/I.B. Section, as the case may be, not later than 29.1.2000. The option once exercised shall be final. According to the revised orders, both Shri V.K. Paratkar and Shri Shyama Prasad Dutta exercised fresh option to come over to the revised pay scale and to fix their pay in the revised pay scale under CCS(RP) Rules, 1997 on a date subsequent to their increment after 1.1.1996 and their pay was ~~refixed~~ fixed. The plea of the applicant that the applicant also submitted his option within due time but the same might have been misplaced from the office of the respondents as there were two persons of the same name i.e. the applicant and Shri Shyama Prasad Dutta, is not supported by any proof. The respondents have clearly denied the version of the applicant that the applicant has submitted his option. The applicant has not



proved this fact by way of any documents. In absence of any documentary proof of submission of the option by the applicant, in case his juniors after exercising their options have been granted the benefits, then the respondents cannot be blamed of their action. Hence, there is no illegality or irregularity in the action of the respondents.

7. In view of the aforesaid, we are of the considered opinion that the applicant has failed to prove his case and the OA is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या. जबलपुर, दि.....
"SA" पत्तिलिपि अद्योक्षित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु. के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु. के काउंसल
- (4) बंधुपाल, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु


उप रजिस्ट्रार

k. Datta
on Name

*Forwarded
on
7-10-04*