

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMP : GWALIOR

Original Application No.537 of 2000

Gwalior, this the 17th day of July, 2003

Hon'ble Shri Kuldip Singh-Judicial Member
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

A.N.Sarkar S/o Shri Amarendra Nath Sarkar,
Aged 50 years, Occupation-Assistant Accounts
Officer in the Office of A.G.(A&E) II, New
Building, Jhansi Road, Gwalior R/o 65 Type III
Shashtri Nagar, Gwalior

- APPLICANT

(By Advocate - Shri S.C.Sharma)

Versus

1. The Union of India through the Secretary,
Ministry of Finance, Government of India,
New Delhi.
2. The Comptroller & Auditor General of India,
10, Bahadur Shah Zafar Marg, New Delhi.
3. The Accountant General (A&E) II Office, New
Building, Jhansi Road, Gwalior (M.P.).
4. Vinod Kumar Saxena P.No.02/3564, Assistant
Accounts Officer in Office of A.G.(A&E) II,
New Building, Jhansi Road, Gwalior (M.P.) - RESPONDENTS

(By Advocate - None)

O R D E R (Oral)

By Kuldip Singh, Judicial Member -

As none is present on behalf of the respondents,
we are deciding the application ex parte, under Rule 16(1) of
CAT (Procedure) Rules, 1987.

2. The applicant has filed this application aggrieved
by the order dated 4.9.1998 (Annexure-A-7) by which the
applicant has been denied stepping up of his pay in
comparison to his juniors whose pay had been fixed at
a higher stage by virtue of they having worked in certain
identical posts where there was some special pay attached
to those posts, in the lower cadre. The respondents while
denying this benefit to the applicant had relied on
Office Memorandum No.7/75 issued by the Ministry of Finance
Govt. of India dated 1.12.1994 and stated that as per
para 3 of the said OM the applicant's salary cannot be

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compared with those juniors who had been fixed at a higher pay by virtue of their having worked on a post which had some special pay while they were working in the lower cadre.

3. It is not disputed that the applicant is senior to those juniors whose pay had been fixed at a higher stage. In this context the learned counsel of the applicant has relied on a judgment of this Tribunal in the case of Pradeep Deshmukh Vs. Union of India & others, O.A.No.692 of 1998 which was decided on 23.11.2001 along with 8 other connected cases, where a similar question was involved. While discussing the fact the Tribunal has also observed that the case of the applicants in those OAs was examined in the light of the circular dated 1.12.1994 and the Tribunal had observed that the case of those applicants is within the terms of the said circular. So, dealing with the question whether the applicants can claim for stepping up of their pay in the promoted cadre when their juniors who were later promoted were fixed up on higher scale taking into account the special pay which they drew in the lower category, the Tribunal has relied on a decision of the Hon'ble Supreme Court in the case of Union of India Vs. P.Jagdish, AIR 1997 SC 1783, and those OAs were partly allowed with a direction to the respondents to step up the pay of those applicants at par with the pay drawn by their junior from the date of promotion of the junior to the post of Sr.Accountant. The Tribunal also observed that the applicants would not be entitled for special pay or arrears thereas as made available to their junior, and that "the applicants shall be entitled for arrears of pay and allowances based on stepping up of thier pay from the date the junior to the applicants was promoted to the post of Sr.Accountant.

4. Since this case on facts is similar to those OAs decided by this Bench earlier at Jabalpur, so we are also of

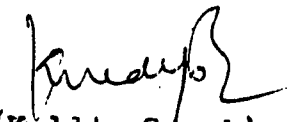
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the considered opinion that the present applicant is also entitled to the same benefits. Accordingly, this OA is allowed to the extent directing the respondents that the applicant should be given the benefit of stepping up of pay from the date his junior was promoted. However, the applicant shall not be entitled to any special pay or arrears thereof as made available to his junior. The applicant shall be entitled to the arrears of pay and allowances based on stepping up of his pay from the date his junior was promoted in the same pay scale. The respondents are directed to comply with these directions within a period of four months from the date of communication of this order. No costs.


(Anand Kumar Bhatt)
Administrative Member

rkv.


(Kuldip Singh)
Judicial Member