

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD.

(Circuit Bench at Nainital)

Original Application No. 331/01423 of 2017

Dated: This the 26th day of April 2019.

PRESENT:-

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Shrikant Sharma age 52 years, S/o Late Shri B.D. Sharma R/o 33/1 Pathri Bagh Dehradun presently posted as Assistant in Geodetic and Research Branch, Survey of India 17 EC Road, Dehradun.

. . . Applicant

By Adv: Shri K.H. Gupta

V E R S U S

1. Union of India through Secretary, Ministry of Science and Technology, Government of India, New Delhi.
2. Surveyor General of India, Survey of India, Surveyor General Office, Post Box No. 37 Dehradun, Uttarakhand, India.
3. Director, Administration and Finance, Surveyor General Office, Post Box No. 37 Dehradun, Uttarakhand, India.
4. The Controller of Accounts, Principle Accounts Office, Ministry of Science and Technology, Department of Science and Technology, Technology Bhawan, New Mehrauli Road, New Delhi 110016.
5. Senior Account officer, Central Pay and Account Office, Ministry of Science and Technology (Survey of India), Government of India Office at 17 EC Road, Dehradun.

. . . Respondents

By Adv: Shri D.S.Shukla/Shri P.K. Rai

ORDER

1. The present O.A has been filed by applicant Srikant Sharma seeking following reliefs:-

"A. To issue an order or direction for calling the records and directing the respondents No. 4 and 5 to clear/pay the Bill No. 932/Pay Arrear and 1.11.2016 (Annexure No.1) of the

pay arrear of applicant of period December 1994 to October 2016 approved by Surveyor General of India (Respondent No. 2 vide letter dated 08.09.2016.

- B. To issue an order or direction for calling the records and quash the order dated 12.09.2017 (Annexure No. A-10) being arbitrary and whimsical and contrary to law.
- C. To issue any other order or direction, which this Hon'ble Tribunal may deem fit and proper in the facts of the case.
- D. To award the cost of the applicant".

2. Case of applicant is that his basic pay in 1992 was Rs.1150/- per month while serving in the respondents – department. From 01.12.1993 to 01.12.1996 for four years applicant remained without annual pay increment due to the Efficiency Bar (as per the departmental Fundamental Rules applicable on the applicant in the Service Rules). On 4.3.1997 (Annexure A-3) applicant crossed the E.B. which was cleared from 1.12.1994 and his revised pay was fixed at Rs. 1175/- per month from 1.12.1994. It is further case of applicant that if the applicant was not given Efficiency Bar (which was cleared retrospectively in 1997) his pay on 01.12.1994 was to be fixed at Rs.1200/- per month as he was drawing Rs.1150/- in the year 1992 (with Rs. 25/- annual increment). It is in the year 2012 when he procured a copy of service book to check his leave status, he noticed that for the year 1993 his increment of Rs.25/- was not credited in his account and he is receiving pay without the increment of 1993. On his representation, his claim was approved by Dy. Surveyor General vide order dated 5.2.2016 (Annexure A-5) and bills were forwarded to Respondent No. 5 for clearance, who raised an objection which was replied by the department that the review DPC for E.B clearance was headed by Additional S.G. and future change can be done by an officer senior to Additional S.G.

3. It is further averred in the OA that Surveyor General of India (respondent No.2) informed respondent No. 5 vide letter dated 8.9.2016 approving the fixation of the applicant's pay at higher stage (that is 1200 instead of 1175/-) on 01.12.1994 with consequential benefits taking into account his length of service from due date for crossing the E.B as per FR 25. Despite abovementioned departmental approval of the bills of the pay arrear of the applicant, respondent Nos. 4 and 5 are illegally sitting over the bills of the applicant. The applicant is entitled for the pay arrear on both the accounts firstly his actual pay on 01.12.1994 was Rs.1200/- per month (which was illegally and mistakenly recorded as Rs.1175/- in his service book). Secondly vide letter dated 08.09.2016, the Surveyor General of India has also approved the pay fixation of the applicant at Rs.1200/- per month instead of Rs.1175/- on 01.12.1994 taking into account his length of service from due date of crossing the E.B. Hence, present O.A.

4. In the counter affidavit, it has been averred that DPC recommended the next increment to the applicant w.e.f. 1.12.1994 instead of 1.12.1993 and, therefore, the grant of increment to applicant w.e.f. 1.12.1993 instead of 1.12.1994 is not justifiable. Respondents also take the plea of delay of 23 years in filing the O.A by the applicant and, therefore, the OA is barred by period of limitation. As per the procedure, it is mandatory to the administrator to inform the fixation of pay to the concerned employee and, therefore, the applicant must have been informed about fixation of his pay in 1997. It is further averred that claim of applicant for antedate increment is against FR 25 (2.6) in which it is clearly mentioned that for antedated increment, constitution of review DPC is a pre-requisite.

5. Applicant has filed the rejoinder affidavit wherein he is reiterated the pleas raised by him in the O.A. and his grievance was

redressed by respondent Nos. 2 and 3 but now they are taking a stand contrary to their earlier order.

6. I have heard and considered the arguments of learned counsels for the parties and gone through the material on record. Undoubtedly vide letter dated 5.2.2016 of Dy. Surveyor General of India (Annexure 5 to the OA) as well as letter dated 8.9.2016 of Surveyor General of India (Annexure CA 4 to the counter affidavit), pay of applicant was fixed at higher stage. Whoever as per letter dated 25/26.7.2017 (Annexure CA 9), Surveyor General of India re-examined the issue and took a stand contrary to its earlier order and held that the claim of applicant is time barred which cannot be entertained at this stage. The said letter reads as under:-

“It is brought to your notice that Shri Srikant Sharma, Assistant represented through his application dated 24.11.2015 for an increment which was withheld due to not crossing efficiency bar during 1993.

The above case was referred to DST's Principal Accounts office for clarification. In this regard, the above Accounts Office has advised that “the benefit of antedating the date is not permissible without a review committee of DPC chaired by an officer higher than Addl. Surveyor General, who headed the earlier DPC.

Further before constituting a revised/review committee the case is required to be examined under GFR (296-297), as this is a time barred case and special relaxation order is required to be issued by Head of Department in first instance. Then a review DPC headed by an officer higher than Addl. Surveyor General is to be constituted and orders may be issued to antedate the date from 01.12.1994 to 01.12.1993 as per instructions contained in FR 25 (2.6).

Therefore, in view of above, the subject case was re-examined for special relaxation for time barred claim under terms and conditions of GFR-296 (i) and it is found that the applicant has not put forth any such causes and circumstances as per provisions of GFR 296 (i) which warrant consideration for special relaxation of his belated claim at this stage. Thus it is a time barred claim which cannot be entertained at this stage.

Please inform the concerned applicant accordingly”.

7. Therefore, from the various orders on record, it is clear that the approval given by Surveyor General of India to fix the pay of applicant at a higher stage has been subsequently withdrawn by the same authority. This order has not been challenged by the applicant.
8. In the facts and circumstances of the case, I am of the view that no case is made out by the applicant. The O.A being meritless, is dismissed. No order as to costs.

(RAKESH SAGAR JAIN)

MEMBER (J)

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