

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1000/2003

Monday, this 29th day of December, 2003

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri S.A.Singh, Member (A)

Shri A.K.Malhotra,
S/o Late Sh.B.L.Malhotra
PD-28C, LIG Flats
Vishakha Enclave, Pitam Pura
Near ND Market
Delhi-110088.

(By advocate: Shri S.M.Ratanpaul)

VERSUS

1. Union of India through
The Secretary
Ministry of Textiles,
Udyog Bhawan
Rafi marg,
New Delhi.
2. The Development Commissioner (Handicrafts)
West Block No.7
R.K. Puram
New Delhi-110066.
3. Deputy Director (A&E)
Office of the Development Commissioner(Handicrafts)
West Block No.7
R.K. Puram
New Delhi-110066.

(By Advocate: Shri K.R.Sachdeva)

..Respondents.

O R D E R (ORAL)

By Shri Kuldip Singh, Member(J)

The applicant has filed this OA under Section 19 of the A.T.Act, 1985 whereby he has assailed the act of the respondents in denying him restoration of the scale of pay of Rs.550-900 in Group 'B' non-gazetted post w.e.f. 1.3.78, the date on which the post of Junior Field Officer (JFO) to which the applicant was appointed on 18.12.75, had been redesignated as Carpet Training Officer (CTO) in group 'C' non-gazetted with reduced scale of pay of Rs. 550.-800.



2. It is contended that 51 others who were junior to the applicant and similarly recruited and similarly appointed as JFO in Group 'B', had been placed in group 'C' non-gazetted post of CTO in the pay scale of Rs.550-800 before 1.3.78 like the applicant.

3. The applicant has a further grievance that after 1.3.78, some more CTOs recruited in the pay scale of Rs.550-800 in group 'C' non-gazetted and all of them were junior to the applicant. Their pay scale had been upgraded to the scale of Rs.550-900 in implementation of judgements of various Benches of the Tribunal as well as the Hon'ble High Court of Jammu & Kashmir. The applicant further alleges that the benefits of this judgement had not been extended to him whereas various CTOs, who are junior to the applicant, have been given the benefits of upgradation of scale of pay of Rs.550-900.

4. The applicant has also a grievance that he is not being regularised in the pay scale of Rs.550-900 w.e.f. 18.12.75 in group 'B' non-gazetted when quite a number of his juniors had been so regularised vide orders dated 9.8.2002 and 23.12.2002.

5. The facts in brief are that the applicant was appointed as JFO on 18.12.75 in the pay scale of Rs.550-900. However, w.e.f. 1.3.78, all those JFOs, who were working at Carpet Weaving and Training Centres of the All India Handicraft Board were redesignated as Carpet Training Officer (group 'B' non-gazetted) in the pay scale of Rs.550-900 vide order dated 15.2.78.

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6. It has also been mentioned that those JFOs redesignated as CTOs and who were not willing to accept redesignation as CTOs, were free to resign. However, under compelling circumstances, the applicant accepted the post of CTO. Those CTOs who were recruited as JFOs before 1.3.1978 and then redesignated and down-graded as CTOs w.e.f. 1.3.78 and those CTOs who were recruited after 1.3.78 as CTOs, all of them became single group of service and were treated as one class of CTOs with identical job performance.

7. It is further pleaded that prior to the separation, there were two separate streams of the JFOs in the Department. One was of the JFOs on the Carpet scheme side and the other JFOs on the marketing side. Both these JFOs had the same scale of Rs.550-900 with status of Group 'B' non-gazetted. Both these JFOs were redesignated in 1978-79. JFOs on the carpet scheme side were redesignated as CTOs w.e.f. 1.3.78 with reduced pay scale of Rs.550-800 with the status of Group 'C' non-gazetted, whereas other JFOs on the marketing side were redesignated as handicraft promotion officers in 1979 with the same pay scale and same status. Various CTOs filed OA No. 560/92 titled R.P.Mishra & Ors.. Vs. Union of India and Ors. claiming restoration of pay scale of Rs.550-900. The said OA had been allowed and the respondents were directed to consider stepping up of the applicants therein alongwith similarly placed counterparts. The respondents accordingly issued orders according restoration of the pay scale of Rs.550-900. Based on the above judgement, the respondents

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also allowed the pay scale to some of the non-petitioners. Similarly, in the Writ Petitions filed by A.M.Malik and Others as well as M.A.Siddiqui and Ors. the applicants therein were granted relief by giving the scale of pay of Rs. 550-900. Similarly, Allahabad Bench and Patna Bench of the Tribunal also granted relief to various other CTOs. Accordingly, the applicant is perhaps the only one in the pay scale of Rs.550-800 and his pay scale has not been restored. The applicant further pleaded that vide respondents orders dated 9.8.2002 and 23.12.2002 they have regularised a number of CTOs, who were petitioners in some of the OAs in the pay scale of Rs.550-900 denying the same regularisation to the applicant which is illegal. Thus the applicant's claim is that he be declared entitled to restoration of his pay scale of Rs.550-900 in group 'B' non-gazetted w.e.f.01.3.78 and also declared him entitled to be regularisation in the pay scale of Rs.550-900 w.e.f. 18.12.75.

8. Respondents have contested the OA. Respondents in their counter affidavit initially pleaded that the OA is misconceived and as such is liable to be dismissed. However, it is admitted that vide order dated 16.5.97 pay scale of existing CTOs were restored. It is stated that the applicant was also working as Assistant Director at that time. Respondents also filed additional affidavit wherein it is stated that the Gwalior Bench of the Tribunal in the case of B.N.Tiwari Vs. UOI wherein respondents were directed to grant the benefits of higher pay scale as per the order dated 30.9.97. Accordingly, the applicant therein was granted the relief with all consequential



benefits within a period of four months from the date of communication of the OA. Pursuant to the Gwalior Bench's judgement, respondents had restored the pay scale of Rs.550-900 in respect of 21 officials including the applicant w.e.f. 1.3.78, upto the period they discharged the duty of CTOs in the pre-revised scale of Rs.550-800.

9. From the perusal of the additional affidavit, it is clear that the respondents had restored the pay to the applicant in the pay scale of Rs.550-900. So, the relief with regard to the restoration of the pay of the applicant stands already granted. Now the only question remains about the regularisation of the services of the applicant as prayed at paragraph 8(v) of the OA seeking direction to regularise him w.e.f.18.12.75 in the pay scale of Rs.550-900. The applicant refers to an order dated 9..2002 (Annexure A-2) wherein it is mentioned that certain persons junior to the applicant had been regularised in consultation with the UPSC.

10. Learned counsel for respondents submits that as far as regularisation is concerned, the same is subject to the approval by UPSC as per rules and on the terms and conditions as mentioned in the office order. It is mentioned therein (Annexure A-7) that "All other conditions mentioned in the order No.20/16(10)78-admn-II dated 15.2.78 will remain unchanged. The status of these CTO's erstwhile JFO's will be adhoc and subject to regularisation of UPSC as per rules and on the same terms and conditions as mentioned in this office order of even no. dated 16.5.97.

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However, learned counsel for respondents was unable to give a satisfactory reply to the effect that certain CTOs junior to the applicant had already been regularised through UPSC. He also submits that the benefits of restoration of the pay scale to the applicant had been granted only on the basis of the decision given by the Jabalpur Bench of the CAT which had not given any relief with regard to the regularisation of the petitioner. But as far as regularisation of other officials junior to the applicant is concerned, though it is submitted that they were regularised in terms of the directions given by various courts, but the fact remains is that juniors to the applicant have been regularised.

11. We have given our anxious consideration to the rival contentions raised by learned counsel for the parties.

12. As regards the question of regularisation is concerned, as per the documents on record, some of the officials junior to the applicant had been granted regularisation but their cases referred to UPSC were withdrawn. This matter can also be disposed of with a direction to respondents to consider the case of the applicant for regularisation on the same terms and conditions as applied in the case of his juniors, who had been regularised earlier in accordance with the rules on the subject. The case of the applicant be also referred to the UPSC for consideration of his regularisation if required as per rules.


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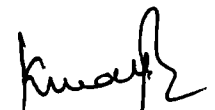
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13. Accordingly, we allow the OA with following directions:

(i) As regards the restoration of pay scale from back date is concerned, the respondents in their additional affidavit stated that the pay of the applicant has already been re-stored vide their order dated 28.10.2003. However, we direct the respondents that the arrears, if any, be paid to the applicant within four months from the date of receipt of the copy of order.

(ii) As regards the regularisation of the JFOs is concerned, respondents are directed to consider the case of the applicant for regularisation in accordance with the instructions and judicial pronouncements made on the subject by referring the case to the UPSC within four months from the date of receipt of a copy of this order.
No costs.


(S.A. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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