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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.2232 OF 2003

New Delhi, this the 18th day of May, 2004

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER  
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Kanhaiya Lal Agarwal  
S/o late Shri Ram Prasad Agarwal,  
C/o Shri S.s. Agarwal, C-7/10, Model Town III,  
Delhi-110009.  
Retired as UDC, Asstt. Garrison Engineer, E/M II,  
Agra Cantt. ....Applicant

(By Advocate : Shri C.B. Pillai)

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Engineer-in-Chief, E-in-C's Branch, Army Headquarters, Kashmere House, New Delhi-110011.
3. The Chief Engineer, HQ Central Command, Lucknow.
4. The Commander Works Engineer (AF), Maharajpur District, Gwalior.
5. The Garrison Engineer (AF), Kheria, Agra-282008.
6. The Garrison Engineer (AF), Maharajpur District, Gwalior.
7. Asstt. Accounts Officer (Army), Agra Cantt.

.....Respondents

(By Advocate : Shri R.N. Singh for Shri R.V. Sinha)

ORDER (ORAL)

**SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER :**

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking a direction to respondents to grant notionally the stagnation increment and the annual increments accrued during the period from 1.8.1985 to 28.8.1987 w.e.f. 22.8.1987. The applicant also claimed

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consequential reliefs relating to revision of pension, etc. along with interest.

2. It is stated that the applicant joined service as Lower Division Clerk on 29.4.1979. He was relieved from Kheria on 31.7.1985 to report to the Enter Works Engineer, Maharajpur, Gwalior. The applicant was not taken on duty due to errors in the relieving order. He, therefore, returned to Kheria where he was neither taken on duty nor was he sanctioned TA/DA for returning to Maharajpur, Gwalior. Against the order of his transfer, the applicant had filed O.A. No. 334 of 1986 before Allahabad Bench of this Tribunal. By order dated 2.5.1988, the O.A. was disposed of the same with the following directions:

"8. For the reasons mentioned above, the applicant is not entitled to draw full pay and allowance for the period 1.8.85 to the date of his rejoining duty with the Garrison Engineer Kheria Agra. Although he will be treated as being in continuous service, but he will be entitled to pay and allowances as if he was on leave as may be due to him for the intervening period. He will also not be entitled to the medical expenses incurred by him for treatment under unauthorised medial attendant during this period.

The application is disposed of accordingly, without any order as to costs."

3. After the order of Allahabad Bench of this Tribunal, the absence was regularised by grant of leave. It is stated by the applicant that he was drawing pay at Rs.1375/- per month in the scale of pay of Rs.950-1500 w.e.f. 9.9.1986. He should have been sanctioned next increment notionally w.e.f. 1.1.1987

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but actually from 22.8.1987 in view of the judgement of the Tribunal dated 2.5.1988. Since this was not done, he also suffered wrong fixation of pay from time to time. The applicant is stated to have been agitating his grievance all along particularly after the order dated 3.5.1988 of Allahabad Bench of this Tribunal. The impugned order dated 6.2.6003 (Annexure A-1) has been passed which, according to the learned counsel for the applicant, does not give him the full relief, in terms of the decision of the Allahabad Bench. Therefore, this O.A. has been filed claiming the relief as stated in paragraph 1 above.

4. The respondents have opposed this application on several grounds. The learned counsel of the respondents stated that the applicant has claimed several reliefs which are not permissible under Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987. It was also stated that if the applicant was aggrieved by non-sanction of applicant of increment from 1987, the present application is highly belated. On merits, it was argued that there is no cause of action for the applicant as he has been given proper pay fixation.

5. In the rejoinder filed, it has been stated by the applicant that the respondents have admitted that the representation was replied to on 30.9.2003. Therefore, this application cannot be taken as filed beyond the period of limitation. It has also been

*Chandra Shekhar*

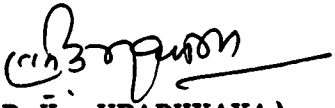
pointed out by the learned counsel for the applicant that all the reliefs claimed are consequential if the pay is properly fixed considering the increments on due dates notionally. Even the refixation of pay on one time promotion on 1.4.1994 and revised pay fixation w.e.f. 1.1.1996 as well as second financial upgradation on 1.9.1998 are all consequential to the main relief.

6. We have heard learned counsel of both the parties and have perused the material available on record.

7. It is stated by the respondents in the impugned order dated 6.2.2003 (Annexure A-1) that the applicant was not granted stagnation increment as he was on leave w.e.f. 1.8.1985. In our opinion, the plea taken by the respondents for not allowing increments during the period of leave which was necessitated on account of transfer of the applicant w.e.f. 1.8.1985 is not proper. Allahabad Bench of this Tribunal as per order dated 2.5.1988 reproduced earlier has held that the period of absence from the date of relieve till he was allowed to join was to be treated "as being in continuous service". Of course, this Tribunal had restricted the payment of pay and allowances but so far other benefits are concerned, they have to be examined as if the applicant was in continuous service. Therefore, rejection of stagnation increments and any other increments which fell due to the applicant during the period of

C. S. Singh

relieving from 1.8.1985 to date of his joining was not justified. We order that the respondents should refix the pay considering the applicant being in continuous service for the purpose of grant of increments, including stagnation increments. This exercise may be done to grant him benefit notionally and he may be given consequential benefits notionally till the date of order of this Tribunal on 2.8.1985. Thereafter, he may be given actual benefits which may accrue to him. The respondents are directed to implement the directions as aforesaid within the period of three months from the date of receipt of this application.

  
(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

  
(SHANKER RAJU)  
JUDICIAL MEMBER

/SRD/

