

Vaman Dattatry Gadagkar

Vs

Director General of Posts, Bombay

Civil Appeal No. 3821 of 1990

(K. Venkataswami, S. P. Kurdukar JJ)

07.04.1997

JUDGMENT

VENKATASWAMI, J. –

1. The appellant approached the Central Administrative Tribunal, New Bombay Bench, by filing OA No. 96 of 1987 along with five others. The relief sought before the Tribunal by the appellant was that he was entitled to take advantage of Time Bound Once Promotion Scheme (for short "TBOP Scheme") introduced by the respondent department on 17-12-1983. The other relief sought was that as and when he is promoted as Lower Selection Grade Accountant the benefit of special pay and also application of FR 22-C must be given to him. The Tribunal, on an elaborate consideration of the pleadings and the arguments placed before it, by order dated 27-4-1988 held that the appellant and five others, who were applicants before the Tribunal, were entitled to the benefit of FR 22-C and so far as the appellant is concerned, an observation was made in the following terms :

"That in case Applicants 1 and 2 secure any promotion in future as LSG their pay should be fixed under FR 22-C and not under FR 22(a)(ii)."

2. The Tribunal negatived the other reliefs sought by the appellant as well as the other applicants.

3. Subsequent to the judgment of the Tribunal it appears the appellant got promotion as Lower Selection Grade Accountant but the Department failed to fix his pay under FR 22-C as directed by the Tribunal. Therefore, he moved the Tribunal by filing Miscellaneous Petition No. 688 of 1988 for clarification. Unfortunately, the Tribunal presumably by mistake rejected the petition by observing as follows :

"In the final order passed in the judgment delivered on 27-4-1988 Applicant 1's claim was rejected. Applicant cannot be given the relief as claimed in MP No. 688 of 1988."

4. Under these circumstances, the above appeal has been filed by special leave. We heard counsel on both sides at length and perused the relevant documents. We do not propose to deal at length regarding the rejection of the appellant's claim for the benefit of TBOP Scheme as the Tribunal has discussed in detail and we are in agreement with the reasonings given by the Tribunal. Further, the issue as such in one sense has become academic as that cadre of Accountants in the pay scale of Rs. 380-620 was abolished on and from 22-2-1981.

5. So far as application of FR 22-C to the appellant is concerned, we find that there is substance in the arguments of the learned counsel for the appellant. We have noticed that the Tribunal while passing the main order in OA No. 96 of 1987 granted the relief regarding the application of FR 22-C. However, in the clarification petition, that was wrongly denied by the Tribunal. Further it is brought to our notice that the Government themselves had conceded this claim generally as evidenced by the letter issued by the Assistant Director General (PE. II), Government of India, Ministry of Communications, Department of Posts, New Delhi, a copy of which has been produced. In the circumstances, we hold that the appellant is entitled to the benefit of FR 22-C and accordingly his pay should be fixed when he was promoted as LSG Accountant. In the result, the appeal is partly allowed to the extent mentioned above. No order as to costs.