

SUPREME COURT OF INDIA

Union of India

Vs.

B.M. Jha

C.A.No.5128 of 2001

(A.K. Mathur and Markandey Katju JJ.)

24.10.2007

ORDER

Heard learned counsel for the parties.

This appeal by Special leave is directed against the judgment and order dated 17.5.2000 passed by the learned Division Bench of the High Court of Delhi whereby the learned Division Bench upheld the order dated 11th January, 2000 passed by the Central Administrative Tribunal, Principal Bench. None appears for the appellant.

The Tribunal has taken the view that since the respondent herein has been granted retrospective promotion from 27.8.1984 he must be paid arrears of pay and allowances for the higher post for the period 27th August, 1984 till 5th February, 1992.

Aggrieved against the order of the Tribunal dated 11th January, 2000 the Appellant herein filed a writ petition before the High Court and the High Court dismissed the writ petition affirming the order of the Tribunal. Hence the present appeal.

We have heard learned counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent normally he is entitled to all benefits flowing therefrom. However, this Court in the case of State of Haryana & Ors. v. D.P. Gupta & Ors., [1996] 7 SCC 533 and followed in the case of A.K. Soumini v. State Bank of Travancore JT (2003) 8 SC 35 has taken the view that even in case of a notional promotion from retrospective date, it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of no work no pay. The learned Division Bench in the impugned judgment has placed reliance on the case of State of Andhra Pradesh v. K.V.L. Narasimha Rao & Ors., (1999) 3 SC 205. In our view, the High Court did not examine that case in detail. In fact, in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. Therefore, we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of no work no pay in case of retrospective promotion. Consequently, we allow this appeal and set aside the impugned order of the High Court dated 17.5.2000 passed by the Division Bench of the High Court as also the order dated 11.1.2000 passed by the Central

Administrative Tribunal, Principle Bench.

The appeal is allowed. No order as to costs.