

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6034 OF 2002

The Union of India & Ors.

...Petitioners

Versus

Shri C. M. Salunke & Ors.

...Respondents

Mr. Y. R. Mishra with Mr. D. A. Dube for Petitioners.

None present for Respondent No. 1.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 09 AUGUST 2018

ORAL JUDGMENT :

1] Heard Mr. Y. R. Mishra for the petitioners. The respondent no. 1 though served, neither present nor represented.

2] The challenge in this petition is to the judgment and order dated 8th April 2002 made by the Central Administrative Tribunal (CAT) allowing Original Application No. 367 of 1998 instituted by the respondent no. 1 Shri C. M. Salunke.

3] Shri C. M. Salunke had instituted OA No. 367 of 1998 seeking a declaration that he is senior to respondent nos. 4 and 5 to the Original Application and for a direction to the petitioners herein to include his name in the impugned seniority list at a position above respondent no. 4 (Shri R. H. Jadhav). Shri C. M. Salunke had also prayed that directions be issued to the petitioners for holding a review DPC to consider his case for promotion to the post of Chargeman Grade - I from the date of promotion of his juniors.

4] During the pendency of the Original Application, the petitioners themselves, substantially accepted the contentions of Mr. Salunke by according him the correct seniority position as well as promotion vide order dated 19th December 1999. Therefore, the only grievance of Shri Salunke which survived was payment of arrears for the period between 12th May 1997 i.e. the date on which his juniors were promoted and 19th December 1999, his date of actual promotion.

5] The CAT, in the facts and circumstances of the present case, has correctly held that there was no justification in

denying Shri Salunke benefits of seniority and promotion with effect from 12th May 1997 and therefore, arrears must be paid to him. The CAT has accordingly directed payment of arrears together with interest at the rate of 12% per annum.

6] Mr. Mishra, the learned counsel for the petitioners submits that since Shri Salunke had not actually worked on the promotional post from 12th May 1997 to 19th December 1999, the CAT erred in directing payment of arrears. He submits that the principle of '*no work no pay*' was clearly attracted in the matter. In the alternate and without prejudice, Mr. Mishra submits that the payment of interest was certainly not warranted.

7] The principle of '*no work no pay*' cannot be said to be attracted to the peculiar facts of the present case. Shri Salunke, was not only ready but was agitating to secure promotion and work in the promotional post. The petitioners denied Shri Salunke such promotion mistakenly. No doubt, the petitioners, upon realizing the mistake, did make amends by promoting Shri Salunke with effect from

19th December 1999. However, Shri Salunke's juniors had been promoted from 12th May 1997. This position is admitted by the petitioners and notional benefit is granted to Shri Salunke. In such circumstances, the CAT committed no error in directing payment of arrears.

8] On the issue of interest, we feel that the rate of 12% per annum is excessive in the peculiar facts and circumstances of the present case. The petitioners have exhibited grace by correcting their own mistake. Ultimately, Shri Salunke has secured promotion as well as arrears. Therefore, interest at the rate of 8% per annum will be appropriate.

9] The impugned judgment and order is therefore modified only to the extent of reducing the interest rate from 12% to 8%.

10] Rule is made partly absolute to the aforesaid extent only. There shall be no order as to costs.

11] Pending civil applications, if any, do not survive and are disposed of.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

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