

Central Administrative Tribunal
Principal Bench

O.A. No.2864/2002

New Delhi this the 29th day of May, 2003

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shhri Kuldip Singh, Member (J)

1. Pulkit Sah S/o Ayodhi Sahu
Sector-4/1185, R.k. Puram,
New Delhi-110022.
2. Narendra Narang S/o H.L. Narang
D-296, Nirman
Vihar, Delhi-110092.
3. Smt. Alka Sohal W/o A.K. Sohal
85-A, DDA LIG Flat, Rajouri
Garden, New Delhi-110027.
4. T.R. Sawariya S/o Late Shri Ram Singh
I-2nd 193 Madangar New Delhi- 62.

-Applicants

(By Advocate: Shri Deepak Verma)

Versus

1. Union of India, through
The Secretary,
Deptt. of Personnel & Training (DOPT)
North Block, New Delhi.
2. The Secretary,
Dept. of Expenditure,
Ministry of Finance,
North Block, New Delhi.
3. The Secretary,
Staff Selection Commission
Block 12, CGO Complex, Lodi Road,
New Delhi-110003.

-Respondents

(By Advocate: Mrs. Avinash Kaur)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

Applicants 1-3 were appointed as
Puncher-cum-Verifier(PCV) in 1979 in the pay scale of
Rs.260-400 and applicant No.4 was appointed as such in
1983 in the scale of Rs.950-1500 on the basis of the
recommendations of the IVth Central Pay Commission and
Seshagiri Committee. The aforesaid scale was revised
as Rs.1350-2200 and the post of Puncher-cum-Verifier

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was re-designated as Data Entry Operator-3 (DEO-B) (Annexure A-2). Vide OM dated 11.9.1989, the post of PCV was redesignated as DEO Grade 'A' (Pay scale of Rs.950-1500), DEO Grade 'B' (Rs.1350-2200) and DEO Grade 'C' (Rs.1400-2300) on the basis of the length of service of PCVs. Applicants' pay was fixed w.e.f. 11.9.1989 in the revised scale of Rs.1350-2200 (now revised to Rs.4500-7000 by 6th CPC w.e.f. 1.1.1996). It is claimed that whereas applicants have completed 18 years of regular service without any promotion and are entitled to first financial upgradation under Assured Career Progression (ACP) Scheme dated 9.8.1999 in the next grade of Rs.5000-9000, the respondents have denied the same benefit on the ground that revision of their pay scale on redesignation is deemed as promotion. Applicants have earlier on approached this Tribunal in OA-2182/2002 which was disposed of on 20.8.2002 directing the respondents to pass a reasoned and speaking order. Applicants have assailed the impugned order (Annexure A-1) dated 24.9.2002 treating revision of their pay scale as promotion.

2. Learned counsel of the applicants stated that under provisions of FR-22 (a) (1) when appointment to the new post involves assumption of duties or responsibilities of greater importance than those attaching to such permanent post on which a Government servant holds a lien, he draws as initial pay the stage of the time scale next above his substantive pay in

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respect of the old post. Learned counsel stated that applicants' placement in the revised scale does not involve assumption of duties or responsibilities of greater importance than ^{those} they were discharging initially and as such provisions of FR 22 (a) (i) have been made applicable to their case for fixing their pay in the revised pay scale. He further stated that this has been clarified by G.I., DOPT OM dated 9.1.1984 to the effect that when the scale of pay of a post is revised upwards without involving assumption of duties and responsibilities of greater importance, the fixation of pay of the incumbents is regulated under FR 23 and FR 22 (a) (ii) [now FR 22 (1) (a) (2)]. Learned counsel also drew our attention to Annexure-J-I dated 28.7.2000 whereby Ministry of Labour on the basis of DOPT's OM dated 10.2.2000 has accorded the first financial upgradation under the ACP Scheme on completion of 12 years service in the pay scale of Rs.1350-2200 (pre-revised) (Rs.4500-7000 revised) to people holding the post of DEO redesignated as DEO Grade 'B'.

3. On the other hand, learned counsel of the respondents stated that the post of DEO Grade 'B' and DEO Grade 'C' are promotional posts for the feeder grade, i.e., DEO Grade-A. As the applicants have been provided the higher post of DEO Grade 'B' and Grade 'C' along with pay scale on the basis of their length of service as PCV, it has to be treated that they have got one promotion and cannot be given the benefit of ACP Scheme. She maintained that the duties of DEO Grade

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'B' and Data Entry Operators Grade 'A' are different.

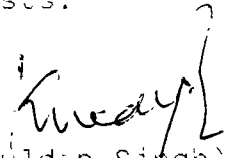
4. Respondents have not been able to establish in any manner that the post presently occupied by the applicants involves assumption of duties and responsibilities of greater importance than those of the post held by them earlier. Clearly, respondents have re-structured the then existing EDP posts and their pay scales on the basis of the recommendations of the IVth CPC and Seshagiri Committee. Fixation of the pay of applicants in the revised pay scale in the re-structured cadre is in terms of FR 22 (a) (ii) and not FR (a) (i) as the applicants are not discharging any duties and responsibilities of greater importance than what they were doing previously. As per Annexure J-I on the clarifications issued by DOPT, Ministry of Labour has already granted first financial upgradation under the ACP Scheme to similarly situated persons as the applicants. Denial of benefit under the ACP Scheme to the applicants is arbitrary and unjustified.

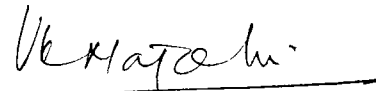
5. In view of the above discussion, Annexure A-1 dated 24.9.2002 is quashed and set aside and respondents are directed to consider granting the first financial upgradation to the applicants under the ACP Scheme on completion of 12 years of service from 11.9.1989 since when they have been placed in the pay scale of Rs.1350-2200 (pre-revised) (Rs.4500-7000-revised) in terms of Annexure J-I dated 22.7.2000.

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Respondents are further directed to take appropriate action in compliance of the above direction within a period of two months from the date of receipt of a copy of these orders.

6. CA is allowed in the aforesaid terms. No costs.


(Guldip Singh)
Member (U)


(V.K. Majotra)
Member (A)

cc.