

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1358/2001

This the 5th day of March, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Smt. Sadhna Singal,
UDC in the O/O Director of Estates,
Nirman Bhawan,
New Delhi.

... Applicant

(By Shri V. Pal Singal, Advocate)

-versus-

1. Directorate of Estates,
Nirman Bhawan, New Delhi.

2. Secretary, G.O.I.,
Ministry of Personnel, Public
Grievances & Pensions (Dept.
of Personnel & Training),
New Delhi.

... Respondents

(By Ms. Pratima K.Gupta through Shri Anil Singal, Adv.)

O R D E R

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

Applicant was promoted as UDC from the post of LDC in December, 1995 on the basis of UDC grade limited departmental competitive examination, 1994. On the basis of her option for pay fixation under FR 22(I)(a)(1), her pay as UDC was fixed vide Annexure A-III dated 17.10.1997 at Rs.4000/- in the revised scale of Rs.4000-6000 and with next increment falling on 1.3.1996 and pay at Rs.4100/- after the date of next increment, i.e., 1.3.1996. Vide Annexure A-VI dated 11.5.2000 in pursuance of DOPT OM dated 23.4.1999 and subsequent corrigendum dated 10.8.1999 (Annexures R-I and R-II respectively) and in partial modification of Annexure

Vh

A-III dated 17.10.1997, applicant's pay was re-fixed in the pay scale of Rs.4000-100-6000 at Rs.4000/- per month w.e.f. 1.3.1996. Applicant has challenged this order.

2. Learned counsel of the applicant contended that earlier pay fixation of applicant as UDC from 1.3.1996 at Rs.4100/- from 1.3.1996 in the revised pay scale was in order and in consonance with the provisions of FR 22(I)(a)(1) and option exercised by applicant. Learned counsel stated that applicant had submitted her fresh option on 5.11.1999 in terms of DOPT memoranda dated 23.4.1999 and 10.8.1999 (Annexure A-XI). According to the learned counsel, applicant had opted again for pay fixation in the higher post of UDC from 1.3.1996 in pre-revised scale of UDC when the next increment in the lower post of LDC fell due.

3. Learned counsel of the respondents stated that applicant was promoted to the post of UDC w.e.f. 29.12.1995 in the pay scale of Rs.1200-2040. Her pay in the grade of LDC prior to promotion as UDC was Rs.1225/- and the next date of increment in the grade of LDC was 1.3.1996. On her promotion, she opted for fixation of pay in the new post from the date of accrual of increment, i.e., 1.3.1996, under the provisions of FR 22(I)(a)(1). Accordingly, her pay was initially fixed at Rs.1230/- w.e.f. 29.12.1995 in the new scale and at Rs.1290/- w.e.f. 1.3.1996 under the provisions of FR 22(I)(a)(1). Consequent upon implementation of Fifth Central Pay Commission (CPC) recommendations, her pay was

↙ ↘

fixed at Rs.4000/- w.e.f. 1.1.1996, i.e., initial stage of UDC's scale and at Rs.4100/- w.e.f. 1.3.1996, i.e., the corresponding stage of Rs.1290/- w.e.f. 1.3.1996. Accordingly, her pay was increased to Rs.4100/- w.e.f. 1.3.1996 in the new scale, i.e., from the date of her next increment. However, it was noticed by respondents that her pay was not fixed correctly. DOPT also issued memoranda dated 23.4.1999 and 10.8.1999 stipulating that pay of a government servant promoted after 1.1.1995 but before 1.1.1996 and who opted for fixation of pay in the new post from the date of accrual of increment in the lower post, should be fixed under the provisions of FR 22(I)(a)(1). Accordingly, her pay was to be fixed in the new post with reference to pay that had been fixed at the time of promotion initially at the stage on the time scale of the new post above the pay in the lower post and was to be allowed to draw pay in the revised scale w.e.f. 1.1.1996. Further, the notional pay in the lower post in the revised scale was to be fixed as on 1.1.1996 and from the date of accrual of increment in the lower post; the pay in the promoted post was to be re-fixed by granting one increment in the scale of LDC plus one notional increment of Rs.100/-. Respondents asked applicant in pursuance of DOPT's memoranda dated 23.4.1999 and 10.8.1999 to give fresh option whether her pay in the revised scale be fixed in the promoted post under FR 22(I)(a)(1) either from the date of promotion or from the date of next increment in the lower post falling on or after 1.1.1996. Applicant opted for fixation of her pay



w.e.f. 1.3.1996, i.e., the next date of increment. FR
22(I)(a)(1) reads as follows :

"F.R.22(I) The initial pay of a Government servant who is appointed to a post on a time-scale of pay is regulated as follows :-

(a)(1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty-five only, whichever is more.

Save in cases of appointment on deputation to an ex-cadre post, or to a post on ad hoc basis, the Government servant shall have the option, to be exercised within one month from the date of promotion or appointment, as the case may be, to have the pay fixed under this rule from the date of such promotion or appointment or to have the pay fixed initially at the stage of the time-scale of the new post above the pay in the lower grade or post from which he is promoted on regular basis, which may be refixed in accordance with this rule on the date of accrual of next increment in the scale of the pay of the lower grade or post. In cases where an ad hoc promotion is followed by regular appointment without break, the option is admissible as from the date of initial appointment/promotion, to be exercised within one month from the date of such regular appointment:

Provided that where a Government servant is, immediately before his promotion or appointment on regular basis to a higher post, drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post held by him on



regular basis by an amount equal to the last increment in the time-scale of the lower post plus twenty-five, whichever is more."

4. DOPT OM dated 23.4.1999 as modified by OM dated 10.8.1999 on the subject, "Option of date for fixation of pay on Promotion - regarding", reads as follows "

"The undersigned is directed to invite a reference to the saving clause of FR 22(I) (a)(1) on the subject mentioned above which provides that when a Central Govt. employee is promoted to next higher grade or post where pay has to be fixed under the provisions of FR 22(I)(a)(1), he may be given option for fixation of his pay as under :-

- (a) either his initial pay may be fixed in the higher post on the basis of FR 22(I)(a)(1) straightaway without any further review on accrual of increment in the pay scale of the power post, or
- (b) his pay on promotion may be fixed initially at the stage on a time scale of the new post above the pay in the lower post, which may be re-fixed on the basis of the provisions of FR 22(I)(a)(1) on the date of next increment in the scale of the lower post.

2. References have been received from various Ministries/Departments regarding applicability of the above provisions in the cases of employees who had been promoted before the 1st January, 1996 and who had exercised their option as at (b) above, for fixation of their pay on promotion and in whose cases the date of next increments in the lower scales (both pre-revised and revised) fell on or after 1st January, 1996. The matter has been carefully examined and the President is pleased to decide as follows:-

- (i) on 1st January, 1996, the pay of such Govt. servants may be fixed in the promoted posts with reference to pay that had been fixed at the time of promotion initially at the stage on time scale of new post above the pay in the lower post or from which he has been promoted on regular basis. They will be allowed to draw than pay in the revised scales w.e.f. 1st January, 1996.

W

(ii) their notional pay in the lower posts in the revised scales may also be fixed as on 1st January, 1996. From the dates of accrual of the next increment in the revised scale in the lower post, their pay in the promoted post may be re-fixed on the basis of provisions of FR 22(I)(a)(1). {Substituted by OM dated 10.8.1999}.

(iii) in the promoted post, they will draw their next increments on completion of one year from the date the pay was re-fixed under (ii) supra subject to the satisfaction of other conditions.

3. The question as to whether the Government servants promoted before 1st January, 1996 should be given another opportunity to give fresh option to get their pay fixed in the promoted post in view of the introduction of revised pay scales w.e.f. 1st January, 1996 has also been considered and it has been decided that the employees promoted after 1.1.1995 but before 1st January, 1996 and whose date of next increment in the lower posts falls on or after 1st January, 1996 may be allowed another option to get their pay fixed in the promoted post under FR 22(I)(a)(1) either from the date of promotion or from the date of next increment in the lower post falling on or after 1st January, 1996.

4. Option in terms of para 3 and in cases of officers who have been promoted on or after 1st January, 1996, till the date of issue of the orders shall be exercised within a period of three months from the date of issue of this corrigendum. In case of promotions after the date of issue of these orders, option shall be given within one month of the date of promotion. Option once exercised shall be final. {Substituted by OM dated 10.8.1999}.

5. In so far as their application to the employees belonging to the Indian Audit and Accounts Department is concerned, these orders issue in consultation with the Comptroller & Auditor General of India.

6. Ministry of Finance etc. are requested to bring the above decision to the notice of all concerned."

5. Applicant submitted her option in response to the said memoranda issued by DOPT for fixation of pay in

W
/ \

- 7 -

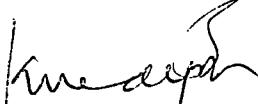
higher post of UDC from 1.3.1996. As per this option, respondents have fixed her pay vide Annexure R-III dated 15.10.1997 as follows :

"Existing scale of pay (where there is more than one scale and the scales are merged, in a single revised scale in which the officer was drawing pay should be specified)	Rs.1200-30-1560-EB-40-2040
Proposed scale of pay	Rs.4000-100-6000
Existing pay	Rs.1230/-
D.A. as on 1-1-96 (at index level 1510)	Rs.1820/-
Ist instalment of I.R.	Rs.100/-
2nd instalment of I.R. @ 10% of basic pay subject to minimum of Rs.100/-	Rs.123/-
Existing emoluments	Rs.2373/-
Add 40% of basic pay	Rs.492/-
Total	Rs.3765/-
Stage next above in the proposed scale including benefit of bunching, if admissible	Rs.4000/-
If 1 increment is ensured in the proposed scale for every 3 increments in the existing scale, the stage of pay in the proposed scale	Rs.4000/-
Pay to be fixed in the proposed scale (stage of pay at Sl.No. 12 or 13 whichever is higher)	Rs.4000/-
Amount of personal pay (if the revised pay is less than the existing emoluments plus personal pay, the difference to be allowed personal pay over and above the revised pay)	
Date of next increment	1.3.1996
Any other relevant information	Promoted as UDC w.e.f. 29.12.95."

W
→

6. From a perusal of the above statement of fixation of pay of applicant on her promotion as UDC in terms of her option, provisions of FR 22(I)(a)(1) and memoranda issued by DOPT on the subject, which have been cited above, we find that whereas pay of applicant was not fixed correctly on the earlier occasion, it was correctly fixed by Annexure A-VI dated 11.5.2000.

7. Accordingly, we do not find any merit in the OA which is dismissed. No costs.



Kuldip Singh

(Kuldip Singh)
Member (J)



V.K. Majotra

(V. K. Majotra)
Member (A)

/as/