

Central Administrative Tribunal
Principal Bench

O.A. No. 137 of 2001

New Delhi, dated this the 3rd May, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. Sh. A.L. Gogna,
S/O L. Sh. M.R. Gogna,
R/o 52, Shastri Park,
Gali No. 3, Chander Nagar Road,
Delhi-110034.

2. Sh. K.L. Gauba,
S/o L. Sh. Khem Chand,
R/o H.P. 138, Pitampura,
Delhi-110034.

... Applicants.

(By Advocate: Shri Mohinder Madan)

Vs.

1. Government of N.C.T. of Delhi
through Chief Secretary
5, Sham Nath Marg, New Delhi.

2. The Director
Dte. of Training of Technical Education,
Government of N.C.T. of Delhi,
Muni Maya Ram Marg, Pitampura,
Delhi-110034.

3. The Principal,
PUSA Politecnic,
PUSA, New Delhi-110012.

4. Union of India,
Ministry of H.R.D.
Shastri Bhawan, New Delhi-110001.
through its Secretary,

... Respondents.

(By advocate: Ms. Neelam Singh)

ORDER

S.R. ADIGE, VC (A)

Applicants impugn respondents' order dated 18.7.2000 (Annexure A-16) rejecting their claim for stepping up of their pay on par with S/Shri Swaran Singh and V. Swaminathan. Applicants seek stepping up of pay to Rs. 740-880/- w.e.f. 7.3.74 when S/Shri Swaran Singh and V. Swaminathan were granted the aforesaid scale with consequential benefits.

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2. Applicants' case is as follows:

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3. Applicant No.1 was selected by the Subordinate Services Selection Board and was appointed as Workshop Instructors in Pusa Polytechnic on regular basis w.e.f. 30.9.93. Applicant No.2 was initially appointed as a Crafts Instructor under Auxiliary Training Programme on 12.3.83 but after winding up of that Scheme he was given fresh appointment as Workshop Instructors in Pusa Polytechnic on 1.8.63. As Workshop Instructors they were placed in the scale of Rs.150-280, which was later revised to Rs.440-750/- w.e.f. 1.1.73 and to Rs.1400-2600/- w.e.f. 1.1.86. As per their averments, their pay scale was later fixed at Rs.1600-2900/- w.e.f. 1.1.92 and to Rs.5500-9000/- w.e.f. 1.1.96. Applicants retired on superannuation on 29.2.96 and 30.4.96 respectively.

4. Applicants further aver that one Shri Umed Singh also a Workshop Instructor had filed CWP No.82/83 in Delhi High Court, which was later transferred to CAT Principal Bench for disposal and was renumbered as TA No.894/95. In that case, Shri Umed Singh had challenged the seniority list, and pursuant to the Tribunal's order dated 12.9.91, respondents had prepared a fresh seniority list on 12.2.92 (Annexure A-2) in which applicants were shown at Sl.Nos.20 and 14 respectively while S/Shri Swaran Singh and Swaminathan was shown at Sl.Nos.27 and 29 respectively, but despite that the pay scale of S/Shri Swaran Singh and Swaminathan had been fixed at Rs.740-880/- w.e.f. 7.3.74 itself.

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5. Applicants further aver that subsequently one Shri B.R.Dhiman who was also working as Workshop Instructors Pusa Polytechnic filed OA No.613/90 seeking grant of selection grade w.e.f. 1980 with all consequential benefits on the ground that the same had been extended to his juniors. That OA was dismissed by exparte order dated 25.10.94 after hearing respondents' counsel and perusing the materials on record. Thereupon Shri Dhiman had pressed RA No.91/95 which was disposed of by order dated 26.5.95 (copy on record). That order noticed the Tribunal's order dated 12.9.91 in Umed Singh's case (Supra) on the basis of which respondents had modified the seniority, and Shri Dhiman accepted before the Bench that the seniority list as modified by the Tribunal's order dated 12.9.91 was correct and he had no grievance against the same. Consequent to the revision of the seniority list S/Shri Swaran Singh and Swaminathan who were earlier senior to Shri Dhiman had become junior to him and also to various others. The Bench noticed respondents' averment that they had taken the matter of stepping up of pay of all those seniors to S/Shri Swaran Singh and Swaminathan with the concerned authorities. Noticing this averment, the RA was disposed of calling upon respondents to take a decision in this regard within 2 months from the date of receipt of a copy of the order. Pursuant to that order, Shri Dhiman's pay had been stepped up vide order dated 30.1.96 (Annexure A-14).

6. Thereupon after their representation had not met with any satisfactory response applicants filed OA Nos. 1549/99 and 1590/99 for similar stepping up to the scale of Rs. 740-880/- at par with their juniors w.e.f. 7.3.74. Both OAs were disposed of by common order dated 19.4.2000 (Annexure A-15). In that order it was observed that the claims were stale and suffered from laches as their grievance arose in 1985 itself. However, in view of the statements made by respondents in a similar case viz. OA No. 613/95 stating that they were taking steps to step up the pay of applicants also to bring it on par with that of S/Shri Swaran Singh and Swaminathan, respondents were directed to take expeditious steps and pass appropriate orders within three months from the date of receipt of a copy of the order.

7. Pursuant to the aforesaid order dated 19.4.2000, respondents have issued order dated 18.7.2000, which is impugned in the present OA. In this order dated 18.7.2000 a reference has been made to the Delhi High Court's order dated 5.9.84 in CW No. 2034/83 L.S. Chaudhary Vs. Delhi Admn. In that CWP, Shri L.S. Chaudhary had inter alia challenged the acts of respondents in proceeding to grant selection grade for the post of Workshop Instructors on the basis of the revised tentative seniority list dated 13.6.83 (copy on record). The respondents in that CWP included S/Shri Swaran Singh (Respondent No. 3), V. Swaminathan (Respondent No. 6 and K.L. Gauba present applicant No. 1 (Respondent No. 9). Shri

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Chaudhary claimed seniority above all of them. That CW N.2034/83 was dismissed by aforesaid order dated 5.9.84 with the following orders:

"We are satisfied that the seniority of respondents No.3 to 9 has been correctly fixed in accordance with Rule 5 of the Seniority Rules particularly read with Sub-rule 2 Clause (a). There is no merit in the writ petition. The same consequently fails and is dismissed."

8. Relying upon the aforesaid order dated 5.9.94 respondents state in their reply that applicants are not entitled to selection grade on par with S/Shri Swaran Singh and V.Swaminathan in view of their relatively low seniority position. In this connection it is pointed out that the seniority list referred to and circulated vide letter dated 12.2.92 on which applicants based their claim is the seniority list of Workshop Instructors/Instrument Repairers only, and it has no relevance with the present matter as applicants are comparing their pay with those who got selection grade on the basis of the combined seniority list prepared exclusively for the purpose of grant of selection grade and which included other cadres also such as Electronics, Mechanics etc. who had been clubbed together for grant of selection grade.

9. The aforementioned averments of respondents which is contained in para 6 of their reply to the OA has not been specifically and cogently rebutted by applicants in the corresponding para of their rejoinder.

10. Under the circumstances the OA warrants no judicial interference. However, ^{if} ~~some~~ applicants ~~to~~ submit a self contained representation to respondents within 3 months from the receipt of a copy of this order establishing the relevance of the aforesaid seniority list dated 12.2.92 on the basis of which applicants base their case, respondents should examine that representation and dispose of the same by a detailed, speaking and reasoned order in accordance with rules and instructions within 3 months of its receipt.

11. The OA is disposed of in terms of para 10 above. No costs.

S. Raju
(Shanker Raju)
Member (J)

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Antohgi
(S.R. Adige)
Vice Chairman A)