

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1500/2001 with
OA No. 1503/2001
OA No. 1504/2001

New Delhi this the 26th day of November, 2001

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

OA No.1500/2001

Yatinder Kumar
R-/306, Raj Nagar,
Ghaziabad-201002
Uttar Pradesh

-Applicant

Versus

Union of India
Through Secretary
Ministry of Food and Consumer Affairs
Department of Food and Civil Supplies
Krishi Bhawan
New Delhi.

-Respondent

OA No.1503/2001

Deepak Israni,
219, Vidya Vihar
Pitampura
New Delhi-110014.

-Applicant

Versus

Union of India
Through Secretary
Ministry of Food and Consumer Affairs
Department of Food and Civil Supplies
Krishi Bhawan
New Delhi.

-Respondent

OA No.1504/2001

Akhtar-ul-Hanif
18-B, Ber Saria, Near J.N.U.
DDA Flats
New Delhi-110016.

-Applicant

Versus

Union of India
Through Secretary
Ministry of Food and Consumer Affairs
Department of Food and Civil Supplies
Krishi Bhawan
New Delhi.

-Respondent

(By Advocate: None present for applicants
Shri Madhav Panikar, for the respondents)

Un

ORDER (Oral)

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

By these orders, we propose to dispose of the above three OAs together, as the facts and issue involved in the three OAs are similar.

2. The applicants have assailed OM dated 23.5.2001 (Annexure-1) whereby in supersession to this department's earlier order dated 1.4.98 (Annexure-6) the pay of the applicants ^{is} sought to be down scaled and recoveries of alleged over payments are sought to be made with effect from the salary of May, 2001. The pay of the applicants was stepped up with reference to the pay of Shri T.D. Sehra w.e.f. 8.10.96. The applicants ^{were} served with a show cause notice vide Annexure-7 dated 24/29.8.2000 stating that one of the essential conditions to be fulfilled by a senior officer for being eligible for stepping up of pay in comparison with that of a junior officer is that the senior officer has been drawing more pay than the junior officer even in the lower grade. It is further stated that although the aforesaid condition is not fulfilled in the case of the applicants, their pay was stepped up. The applicants submitted their reply to the show cause notice vide Annexure-8 ^{dated} 25.9.2000 which was considered by the respondents vide Annexure-9 dated 23.5.2001. The respondents stating that the essential condition that senior officer in the lower grade was drawing more pay even in the lower grade is

16

not satisfied in the instant case as the juniors have been getting higher pay all along *decided that* there is no scope for stepping up of pay. The decision to step down the pay of the applicants has been taken in the light of a clarification given by DOP&T.

3. We have proceeded to dispose of these OAs in the absence of the applicants and their counsel in terms of Rule-15 of CAT(Procedure) Rules, 1987.

4. The applicants in their representation Annexure-~~8~~^{8b} have relied on Central Administrative Tribunal judgment dated 6.12.94 in the matter of Shri L.K. Chawla Vs. Union of India. ^{(OA 869/91) b} The DOPT while issuing OM dated 8.10.96 (Annexure-~~4~~^{4b}) on the subject of stepping up of pay has referred to the aforesaid orders of the Tribunal. It is stated that Shri Chawla, ^a directly recruited Assistant was drawing less pay on promotion than one of his juniors. Both Shri Chawla and his junior were recruited as Assistant on the basis of Assistant Grade Examination of the same year. The prayer of Shri Chawla was allowed by the CAT and subsequently upheld by the Hon'ble Supreme Court. The facts in the present case are distinguishable from those of the case of Shri Chawla. The applicants *are* directly recruited Assistants while Shri T.D. Sehra was ~~as~~ junior Assistant promoted from UDCs grade. Obviously, the applicants and Shri Sehra did not belong to the same cadre in the lower and the higher grade. Obviously the pay of the applicants ~~was~~ erroneously stepped up with reference to the pay of

Shri T.D. Sehra who was a promotee officer while the applicants were direct recruits. The respondents have given full opportunity to the applicants before resorting to down scaling of their pay and seeking to recover the over payments made to them on account of the erroneous stepping up of their pay.

5. We do not find any infirmity in the action of the respondents in superseding the earlier orders of stepping up of their pay and effecting recoveries of over payments.

6. Having regard to the above reasons and discussion made above, these OAs are dismissed being devoid of merit. No costs.

(Kuldip Singh)
Member (J)

(V.K. Majotra)
Member (A)

cc.

Attested

Signature

C-0.

C-IV