

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A. No.3169 of 2001  
M.A. No.2591 of 2001  
M.A. No.2592 of 2001**

**New Delhi, this the 3<sup>rd</sup> day of October 2002**

**HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI M.P. SINGH, MEMBER (A)**

1. Shri Kashmiri Lal Arora,  
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2. Shri Roop Chand  
S/o Shri Chhidha Singh,  
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W/o Shri P. Dey,  
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Haryana.
4. Shri Lila Dhar  
S/o Late Shri Bhawani Dass,  
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5. Shri J.K. Arora,  
S/o Shri Bodh Raj Arora,  
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S/o Shri Sher Singh Chaudhary,  
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DIZ Area, Gole Market,  
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10. Shri Kishan Lal  
S/o Late Shri Lal Chand,  
R/o 1266, Ixmi Bai Nagar,  
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11. Ms. Grace Lakra,  
W/o Shri Lancer Lakra,  
R/o F-18/71, Sector - VIII,  
Rohini,  
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12. Shri P.S. Bhatnagar,  
S/o Shri Maharaj Swaroop,  
R/o G-670, Srinivas Puri,  
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13. Shri G.P. Gandhi,  
S/o Shri J.N. Gandhi,  
R/o 5A/10, NIT, Faridabad,  
Haryana.
14. Ms. Devi Chandani,  
W/o Shri M.M. Chandani,  
R/o 3/153, Andrews Ganj,  
New Delhi-24.
15. Shri D.S. Mehra,  
S/o Shri Sukh Lal,  
R/o 946, Gali Tata Mandi,  
Tilak Bazar,  
Delhi.
16. Ms. Manjit Kuar  
W/o Late Shri S. Tara Singh,  
R/o 86, Prashant Apptt., Plot No.41,  
I.P. Extension, Delhi.

(3)

17. Shri B.S. Patial  
S/o Shri Burfi Ram,  
R/o S-VII/1263, R.K. Puram,  
New Delhi.
18. Shri Maranus Ekka  
S/o Shri Philip Ekka,  
R/o RZ-9/44, Lane No.12,  
Tughlakabad Extension,  
New Delhi - 19.
19. Shri Bhorl Lal,  
S/o Shri Panchu Ram,  
R/o 1718/5, Rishi Nagar,  
Kotla Mubarakpur,  
New Delhi - 3.
20. Shri Balraj Kataria,  
S/o Shri Chander Bhan,  
R/o 12, Viswa Bari Chandpal,  
Gurgaon.
21. Shri M.P. Mahajan,  
S/o Shri Balwant Rai Mahajan,  
R/o D-77, Laxmi Nagar, Gali No.4,  
Delhi - 92.
22. Shri K.P. Shukla,  
S/o Late Shri V.D. Shukla,  
R/o 37-E, Sector IV, Gole Market,  
New Delhi.
23. Shri Dilbag Singh,  
S/o Late Shri Surat Singh,  
R/o 400/129, Vill. & P.O. Sahibabad,  
Daulatpur, Delhi - 42.
24. Shri Rajender Prakash Sharma,  
R/o A-258, Indrapuri, Loni,  
Distt. Ghaziabad, U.P.
25. Shri S.P. Basra  
S/o Late Shri Kartar Chand,  
R/o 102, Type-III,  
N.W. Moti Bagh,  
New Delhi.

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26. Ms. Sushila Grover,  
W/o Shri Surender Prakash,  
R/o 7/91, Lodi Colony,  
New Delhi.

27. Shri S.D. Burman,  
S/o Late Shri Jamna Dass Burman,  
R/o 128, Shalimar Bagh,  
Delhi - 52.

.....Applicants

(By Advocates : Shri M.L. Ohri with Shri K.L. Bhandula)

VERSUS

1. Union of India, through  
the Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block,  
New Delhi.

2. The Chairman,  
Central Board of Direct Taxes,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi.

3. The Chief Commissioner of Income Tax (Headquarter),  
C.R. Building, Indraprastha Estate,  
New Delhi.

....Respondents

(By Advocate : Shri Rajinder Nischal)

**ORDER (ORAL)**

**Shri Justice V.S. Aggarwal, Chairman:**

**MA No.2591/2201**

MA No.2591/2201 is allowed subject to just exceptions. Filing a joint application is permitted.

**MA No.2592/2001**

Applicants are seeking condonation of delay in filing of original application, assailing that they were previously working as Supervisors Grade-I in the pay scale of Rs.6500-10500 and they were re-



designated and appointed as Administrative Officers Grade-III w.e.f. 16.2.1999. The draft Rules for the post of Administrative Officer Grade-III were circulated on 31.10.2000. The applicants were not given the benefits of F.R. 22 (I) (a) (1) in fixation of their pay. They have submitted their representation in the month of October, 2000, which was rejected on 23.11.2000. The present application was filed on 20.11.2001.

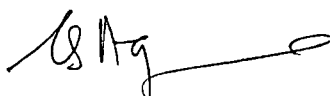
2. The ground asserted is that the applicants were awaiting for the decision on their representation. So the delay was occurred in filing of the present application.

3. It is true that in terms of Section 21 of the Administrative Tribunals Act, 1985, application has to be filed within one year of the cause of action having arisen. But in cases of arrears of pay, it is a continuous cause of action, therefore, the present application cannot be treated as barred by limitation. The amounts that can be released by filing a special suit, in any case is within their right and, therefore, we allow MA 2592/2001.

**O.A. No.3169/2001**

By virtue of the present application, the applicants seek quashing of the order of the respondents dated 23.11.2000 and for a direction to fix the pay of the applicants as Administrative Officer Grade-III after giving them the benefit of F.R. 22 (I) (a) (1) in fixation of their pay as Administrative Officer Grade-III with effect from the dates of their appointment.

2. Some of the relevant facts are that as a consequence of restructure/upgradation of the posts of Supervisor Grade-I, the



applicants were appointed as Administrative Officer Grade-III w.e.f. 16.2.1999. The applicants submitted a representation claiming benefits of the above said Fundamental Rule in fixation of their pay. The said representation has been rejected by the respondents which prompts them to file the present application.

3. The impugned letter dated 23.11.2000 issued from the Office of the Chief Commissioner of Income Tax reads as under:-

"Sub : Fixation of Pay under F R - 22 1 (a) (i)  
- Administrative Officer - Reg.

I am directed to refer to various representations regarding pay fixation of AOs Gd-III under F R 22 (I) (a) (I) and to state that on a reference to the Board, it has been clarified by them that the redesignation of post of Supervisor Gd-I is part of restructuring of the cadre of Supervisor Gd-I. It is a case of mere redesignation after assigning of revised pay scale and therefore the provisions of FR 22 (I) (a) (I) are not attracted & thus are not applicable."

4. Learned counsel for the applicants has contended that fresh duties have been assigned to the applicants and the applicants have become Heads of the office and also have become Gazetted Officers and, therefore, in terms of F.R. 22 (I) (a) (1), they are entitled to higher scale of pay, because their posts have been restructured from Group 'C' to Group 'B' posts.

5. In support of his contention, learned counsel for applicants also relies upon U.O. No.2142/93-Estt. (Pay-I), dated 20-12-1993, from Department of Personnel and Training, Estt, (Pay-I) Section. The relevant extract of the same reads as under:-



"Ministry of Communications may please refer to their U.O. No.2-12-92/PACE/1974, dated 13-12-1993, on the subject mentioned above. Since UPSC have accepted that promotion from Group 'B' to Group 'A' even though there is no change in the scale of pay, amounts to assumption of higher duties and responsibilities, this Department agree to the proposal for application of FR 22 (I) (a) (1) for pay fixation to promotion from Senior Accounts officer (Rs.2,200/4,00) in Group 'B' to Junior Time-Scale in Group 'A' of Indian P & T Accounts and Finance Service. Pay will be so fixed on notional basis from 1-34-1987 but the actual benefits will be available with effect from 1-4-1992."

6. A perusal of the above said communication from the Department of Personnel and Training clearly reveals that it will come into play where there are higher responsibilities assigned to the new post. It will have little application where there is a restructuring in the department and certain new posts have been created in the exigency of service.
7. Before proceeding further one can refer to the advantage to F.R. 22 (I) (a) (1) which was strongly relied upon by the learned counsel for the applicants to buttress his argument. The relevant extract of the same reads as under:-

"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, as the case may be, subject to the fulfillment 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,

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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 one hundred only], whichever is more....."

8. Even this particular Fundament Rule is of little avail to the applicants. It is true that the advantage of the same could be taken if new post carries higher responsibilities or there was a promotion. In the present case in hand, it is not so. At the instance of the <sup>repetition</sup> application, we mention that redesignation of the post from Supervisor to Administrative Officer itself will not imply that the new post carries higher responsibilities. We make it necessary to mention that even if one or two additional duties are added that will also not imply or legality to mean that the post carries higher responsibility.

9. Resultantly, OA is being devoid of merit and is accordingly dismissed. No costs.

  
**(M.P. Singh)**  
**Member (A)**

  
**(V.S. Aggarwal)**  
**Chairman**

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