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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.3268/2001

Thursday, this the 6th day of May, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

K.C. Ganiwal
Secretary
Monopolies & Restrictive Trade
Practices Commission
Kotah House Barracks
Shahjahan Road
New Delhi

(By Advocate: Shri R.K.Makhija)

..Applicant

Versus

1. Union of India
through Ministry of Personnel
Public Grievances & Pensions
Department of Personnel
North Block
New Delhi
2. Union of India
through Secretary
Department of Company Affairs
Ministry of Law, Justice and
Company Affairs
5th Floor, A-Wing
Shastri Bhawan
Dr. R.P.Road
New Delhi-1
3. Deputy Secretary
Monopolies & Restrictive Trade
Practices Commission
MRTP House, Shahjahan Road
New Delhi

..Respondents
(By Advocates: Shri Rajeev Bansal & Shri B.K.Agarwal)

O R D E R (ORAL)

Shri S.A.T. Rizvi:

Applicant and one Shri K.N. Pandey, both
belonging to Central Secretariat Service (CSS), were
placed in the select list for the post of Joint Secretary
on 29.9.1993. The applicant was promoted as Joint
Secretary on 1.9.1993, whereas the aforesaid Shri K.N.
Pandey was made Joint Secretary on 11.1.1995. The said
Shri Pandey, by virtue of his next increment falling due

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on 1.1.1996, got away with pay fixation at a higher level of Rs.18,900/-.. The applicant's date of next increment was to fall due on 1.9.1996. His pay was, therefore, fixed at Rs. 18,400/- as on 1.1.1996. He, thereafter, made representations for the fixation of his pay also at the same level as that of Shri Pandey. The representations made were rejected by the respondents on 17.5.2001 (A-1). The ground taken by the respondents in the aforesaid Office Memorandum is that the essential conditions of seniority and belonging to the same cadre are not satisfied in the applicant's case. The same plea has been taken by the respondents in their written pleadings in the present OA.

2. The learned counsel appearing on behalf of the applicant has drawn our attention to the specific provisions made in this regard in the notification dated 30.9.1997 issued by the Department of Expenditure, Ministry of Finance, Govt. of India on the subject of CSS (Revised Pay) Rules, 1977 (A-8). These are, we find, rules framed by the Govt. of India under proviso to Article 309 of the Constitution and are, therefore, statutory in nature, and are required to be enforced in respect of all matters dealt with by these rules. The matter concerning fixation of pay of a senior, as in the present case, is to be decided in accordance with the aforesaid rules. The relevant provisions are found in Rule 7 (i), Note 6 below Rule 7 (i) and the 2nd proviso to Rule 8. For the sake of convenience, these provisions are reproduced as under:-

7. Fixation of initial pay in the revised scale:-

(1) The initial pay of a Government servant who elects, or is deemed to have

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elected under sub-rule(3) of the Rule 6 to be governed by the revised scale on and from the 1st day of January, 1996, shall, unless in any case the President by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely:-

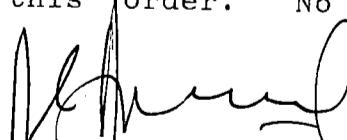
"Note 6.- Where in the fixation of pay under sub-rule (1), pay, of a Government servant, who, in the existing scale was drawing immediately before the 1st day of January, 1996 more than another Government servant junior to him in the same cadre, gets fixed in the revised scale at a stage lower than that of such junior, his pay shall be stepped up in the same stage in the revised scale as that of the junior."

8. Provided further that in cases, other than those covered by the preceding proviso, the next increment of a Government servant, whose pay is fixed on the 1st day of January, 1996 at the same stage as the one fixed for another Government servant junior to him in the same cadre and drawing pay at a lower stage than his in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier."

3. We have carefully considered the submissions made by the learned counsel on either side and find that in view of what is provided in the aforesaid Rules reproduced above, the applicant must be placed on par with Shri K.N. Pandey and his pay should accordingly be fixed at Rs.18,900/- as on 1.1.1996.

4. The OA, in the circumstances, is allowed. The respondents are directed to pay all the consequential benefits to the applicant within a period of two months from the date of receipt of a copy of this order. No costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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