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Central Administrative Tribunal  
Principal Bench

O.A. 1926/99

New Delhi this the 20th January, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

H.S. Sokhi,  
S/o Shri Beant Singh,  
R/o B-1/176-B, Vishnu Garden,  
New Delhi-18. ... Applicant.

In person.

Versus

1. Union of India,  
through the Director General of  
Works, CPWD,  
Nirman Bhawan,  
New Delhi.
2. The Director General of Works,  
CPWD,  
Nirman Bhawan,  
Maulana Azad Road,  
New Delhi.
3. Executive Engineer,  
President Estate Division,  
Rashtrapati Bhawan,  
New Delhi. ... Respondents.

By Advocate Shri K.R. Sachdeva.

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application praying for quashing of the respondents' OM dated 14.10.1993 and for a declaration that he may be granted increment in the pay scale of Rs.1640-2900 w.e.f. 1.6.1986 instead of 1.1.1987 with consequential arrears of pay and allowances with revision in retiral benefits.

2. I have heard the applicant in person and Shri K.R. Sachdeva, learned counsel for the respondents and perused the records.

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3. The applicant has submitted that prior to the revision of pay scales issued by the respondents by O.M. dated 27.3.1991, his basic pay was Rs.1600/- in the pre-revised pay scale of Rs.1400-2300. As he had completed 5 years regular service as Junior Engineer on 1.1.1982, he was fixed in the pay scale of Rs.1640-2900 w.e.f. 1.1.1986 in terms of the O.M. dated 27.3.1991. The applicant has submitted that in terms of Paragraphs 7 and 8 of the Central Civil Services (Revised Pay) Rules, 1986, his next increment in the scale of Rs.1640-2900 should have been fixed on the date when he would have drawn his increment as if he had continued in the previous scale, i.e. w.e.f. 1.6.1986 and not 1.6.1987. He relies on the judgement of the Tribunal in **P. Babu and Ors. Vs. Union of India & Ors.** (OA 535/93), decided on 8.2.1994 (CAT-Bombay Bench), copy placed at pages 19-22 of the paper book. He has submitted that in the case of other three similarly situated persons, who were also Junior Engineers but admittedly in the lower scale of Rs.1400-2300, the Tribunal had allowed their claims and directed the respondents to grant the next increment to the applicants in the higher grade pay scale of Rs.1640-2900 on the normal date as due in the entry grade of Rs.1400-2300. He, therefore, claims that the O.A. may be allowed directing the respondents to grant him increment in the revised pay scale of Rs.1640-2900 w.e.f. 1.6.1986, that is the date on which he would have earned increment in the old pay scale.

4. Shri K.R. Sachdeva, learned counsel, has, on the other hand, submitted that the judgement of the Bombay Bench of the Tribunal, referred to above, will not be applicable to this case in view of the fact that the

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relevant rules and instructions had not been either placed before the Tribunal or referred to by the Tribunal. He relies on the provisions of Paragraph 2 of the respondents' OM dated 27.3.1991 which reads as follows:

"2. (a) While granting the higher grade scale of Rs.1640-2900, as mentioned above to the Junior Engineers (Civil & Electrical) & the Sectional Officers (Horticulture) the following conditions may be specified in the order to the individual Junior Engineers/Sectional Officers concerned;

(i) the higher grade of scale of Rs.1640-2900 will not be treated as a promotional one but will be non-functional, and the benefit of FR 22C now FR 22(I)(a)(i) will not be admissible to them, as there will be no change in their duties and responsibilities.

(b) As per the aforesaid Government decision, this Directorate O.M. No. A-11014/1/86-EC VI (Vol. II) dated 5.6.1987, 11.6.1987 & 4.5.1990 and O.M. No. 26017/1/89-EC VI dated 18.5.1989 hereby stand cancelled".

He has also submitted that by a further OM dated 20.11.1991 (Annexure R-II), a clarification had been given with regard to the date of fixation of the next increment. His contention is that a Junior Engineer on appointment to the higher grade on completion of 5 years service as on 1.1.1986 will draw his initial pay at the stage of the time scale of the new post which is equal to the pay in respect of his old pay or if there is no such stage, the stage next above the pay in respect of the old post. While in the former case, ~~the~~<sup>his</sup> his next increment will become due on the date he would have received an increment in the old post, in the latter case, his increment in the new post will become due on completion of one year, that is 1.1.1987. Learned counsel has submitted that the fixation of the pay of Junior Engineers who had completed 5 years of service w.e.f. 1.1.1986 has been done as a special case where the higher pay has been granted not on promotional basis but as

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non-functional post wherein FR 22 (I)(a)(i) was not admissible. His submission, therefore, is that since in the special circumstances the applicant had been granted the pay in the revised pay scale of Rs.1640-2900 w.e.f. 1.1.1986 after he had completed 5 years service as Junior Engineer when admittedly his pay was Rs.1600/- in the old pay scale, his next increment can only be fixed on completion of one year i.e. w.e.f. 1.1.1987. He has, therefore, submitted that the respondents have acted in accordance with the relevant rules and instructions.

5. I have carefully considered the submissions of the parties and the records.

6. On the first flush, it would appear that the judgement of the Bombay Bench of the Tribunal in OA 535/93 would be applicable to the facts in the present case. However, as correctly pointed out by the learned counsel for the respondents, it is noticed that the judgement dated 8.2.1994 has not mentioned the provisions of the relevant O.M. dated 27.3.1991 or the subsequent clarification given by the respondents on 22.11.1991. It is, <sup>is</sup> ~~further~~, relevant to note that there is no dispute on the facts that the promotions given to the Junior Engineers with 5 years service to the higher grade have not been treated as <sup>is a</sup> promotional one but as a non-functional post because of their stagnation. In the circumstances, a decision has also been taken that the benefit of FR 22(1)(a)(i) is not applicable to the present set of circumstances as there was <sup>is</sup> ~~no~~ change in the duties and responsibilities of the Junior Engineers, in spite of the fact they have been given the higher pay scale. In the circumstances, I find force

in the contentions of the respondents that Paras 7 and 8 of the CCS(Revised Pay) Rules, 1986 will not be applicable to the facts and circumstances of the case.

7. In the result, for the reasons given above, it cannot be stated that the respondents have acted either arbitrarily or illegally or have ignored the relevant rules and instructions on the subject which justifies any interference in the matter. The O.A. accordingly fails and is dismissed. No order as to costs.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member(J)

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