

Central Administrative Tribunal  
Principal Bench: New Delhi

16

OA No. 1235/98

New Delhi this the 4th day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)  
Hon'ble Mrs Shanta Shastri, Member (A)

Shyam Lal Gupta  
S/o Shri Kanshi Ram  
R/o B-104, Street No.1,  
Majlis Park, Delhi-33.

...Applicant

(By Advocate: Shri T.C. Aggarwal)

Versus

1. Government of Delhi,  
through the Chief Secretary  
Delhi 5, Sham Nath Marg,  
Delhi-110054.
2. Principal Secretary(Services),  
Govt. of Delhi, 5, Sham Nath Marg,  
Delhi-110054.
3. The Director of Education,  
Govt. of Delhi, Directorate of Education,  
Old Secretariat Delhi-110054.

...Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

By Reddy, J.-

The applicant was promoted to the post of Superintendent in the Education Department from the post of Grade-II DASS Cadre by order dated 22.2.1996 to Grade-I DASS Cadre. The grievance of the applicant is that he was not relieved immediately alongwith others to join the post in Grade-I, while others who were promoted alongwith him have been relieved and that the applicant is, therefore, paid lesser pay than his juniors. The case of the respondents is that the applicant was retained alongwith 20 others in public interest and that subsequently by an order dated 25.4.96 he was

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17  
suspended. He was relieved only on 5.11.97 after the suspension was revoked and he joined in the Grade-I post on 11.12.97, As several vacancies of Inspectors existed in the department and if all the officers were relieved, the department could not function.

2. Learned counsel for the applicant submits that as the applicant was retained in the public interest he is entitled for stepping up of pay alongwith his juniors in the promoted post. Learned counsel relies upon M.L. Mahana Vs. Union of India & Ors 1996 (2) SCSLJ 130 and S.M. Ghose Vs. Union of India & Ors (1997) 35 ATC 619. In the former case it has been clearly held that if the officer is retained in public interest (emphasis supplied) he is entitled to step up his pay to the level of his junior. The other judgment also is to the same effect. Hence the judgments squarely covered the case of the applicant. It is not in dispute that the applicant has been retained in public interest. Had he been relieved on the same date of order of promotion, he would not have drawn lesser pay in the promoted post. It is true that he was suspended subsequent to the order of promotion in May 1996 but that was not a ground for not relieving the applicant on the date of the order of promotion. As on the <sup>date of the</sup> order of promotion he was not under suspension and that there was no reason not to have relieved him to join the promoted post except in public interest.

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18

3. In the circumstances, we are of the view that the applicant is entitled for the relief claimed by him i.e. for fixation of pay in Grade-I DASS Cadre with effect from the date of promotion order 22.2.96.

4. The OA is accordingly allowed. No costs.

*Shanta*

(Mrs Shanta Shastry)  
M(A)

*V. Rajagopala Reddy*

(V. Rajagopala Reddy)  
VC (J)

cc.