

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

D.A.No. 353/95

New Delhi: this the 1<sup>st</sup> ~~October~~ ~~September~~, 1997.

HON'BLE M.R.S. R.ADIGE VICE CHAIRMAN (A)

HON'BLE DR.A. VEDAVALLI, MEMBER (J)

P.N. Bhargava,  
s/o Shri B.P. Bhargava,  
R/o 23/163, Lodi Colony,  
New Delhi - 110003

working as  
Asstt. Director (Executive),  
Intelligence Bureau, (MHA)  
Govt. of India,

New Delhi - 110 001 .... Applicant.

(By Advocate: Shri R.L. Sharma)

Versus

Union of India,  
through

Secretary to the Govt. of India,  
Ministry of Home Affairs,  
North Block,  
New Delhi-01

2. Secretary to the Govt. of India,  
Dept. of Personnel & Training,  
North Block,  
New Delhi - 01.

3. Director, Intelligence Bureau,  
(Ministry of Home Affairs),  
North Block,  
New Delhi- 1  
.... Respondents.

(None appeared)

JUDGMENT

BY HON'BLE M.R.S. R.ADIGE VICE CHAIRMAN (A)

Applicant seeks quashing of respondents' order dated 22.12.93 (Annexure-A1) and dated 13.12.94 (Annexure-A2) and the benefit of FR 22 (I)(a) (1) in pay fixation on promotion from Joint Asstt. Director (Ex) (JAD) to Asstt. Director (Ex) (AD), in IB w.e.f. 20.11.89.

2. Although JADs and ADs have the same pay scale of Rs.3000-4500, it is not disputed that

as per relevant RRs, JADs constitute the feeder category for promotion to ADs, and are required to have 2 years regular service in the grade to be eligible to be considered for promotion. Respondents also admit that the post of AD (Exe) carries a special pay of Rs.200/- p.m. (when it is held by an IPS Officer, the special pay increases to Rs.500/- p.m.) but the post of JAD(Exe) carries no such special pay. Respondents however contend that the posts of JAD and AD in IB are the same and interchangeable, and promotion from JAD to AD does not involve assumption of duties and responsibilities of greater importance and hence FR 22 (I) (a) (1) is not applicable.

3. We heard applicant's counsel Shri Shama. When the case came up for hearing on 19.9.97 Respondents' counsel Shri V.K. Mehta, we were told, was busy arguing some case elsewhere, but although we waited till well past 3 p.m. that day, he did not appear inspite of this case being at Sl. No.7 in the regular hearing list. Accordingly we proceeded to dispose it of after hearing Shri Shama and perusing the materials on record.

4. The Concise English Dictionary 1984 Edition defines 'promotion' inter alia as 'to raise to a higher rank or position.' Admittedly the post of JAD forms the feeder category for promotion to AD; and applicant's counsel Shri Shama has stated during hearing that the JAD serves under the AD and his ACRs are initiated by the AD. Furthermore when JADs are

deputed to NSG they are designated as Squadron Commander, while ADs similarly deputed are designated as Group Commanders.

5. We specifically asked applicant's counsel whether there were any duty charts describing the duties and responsibilities of JADs and ADs. Applicant's counsel stated that he was not aware of any such duty charts, and even if there were, he expressed his inability to produce the same for our perusal as his client had since retired from IB, and was therefore unable to secure access to those records. As already mentioned in para 4 above, we did not receive any assistance from respondents' counsel Shri V.K.Mehta who was not present when the case came up for hearing.

6. In Ramesh Chand Vs. UOI AISLJ Vol.48 1993 (2) 95 the CAT PB has held that benefit of FR 22 C( renumbered as FR 22(1) ) is available if the promotion post carries higher responsibilities even if it is in the identical scale. In D.Nandanwas Vs. UOI & Ors. AISLJ Vol. 48 1993 (2) 305 the same point has been made that identical scale of pay cannot be made the sole ground for denial of these benefits. Applicant's counsel has also filed a copy of the recommendations of the 5th Pay Commission which has recommended the scale of Rs.3000-4500 for JADs, while for the 52 posts of AD the scale of Rs.3700-5000 has been recommended in respect of 40 posts, and the scale of Rs.4500-5700 has been recommended

(with redesignation as J.T. O. Director 300)

for the remaining 12 posts. In the absence of any materials produced by respondents to the contrary, *prima facie* we have no reason to doubt that promotion from JAO to AD involves assumption of duties and responsibilities of higher importance.

7. In our view, the foregoing aspects of the matter have not been considered by the respondents. Therefore, we quash the impugned orders dated 22.12.93 and dated 13.12.94 and direct the respondents to reconsider the question of granting applicant the benefit of FR 22(1)(a)(i) in the light of the rules and instructions on the subject, as well as in the background of what has been stated above, and to pass a detailed, speaking and reasoned order within 3 months from the date of receipt of a copy of this judgment. In case upon such reconsideration, applicant is found entitled to the benefit of FR 22(1)(a)(i) he shall be entitled to consequential benefits flowing therefrom including refixation of retiral benefits together with payment of arrears. No costs.

A. Vedavalli  
( DR.A. VEDAVALLI )  
MEMBER(J)

S. R. Adige  
( S. R. ADIGE )  
VICE CHAIRMAN(A).

/ug/