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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2602/96

This the 9th day of ~~December~~ ^{January}, 1998.

HON'BLE DR. JOSE P. VERGHESE, VICE CHAIRMAN(J)
HON'BLE MR. N. SAHU, MEMBER(A).

Sh. D.N. Prasad
S/o Sh. Kariman Ram
R/o E-92, DDA Flats,
New Rajit Nagar,
New Delhi-110008.

(By Advocate Sh. S.C. Luthra)

..... Applicant

versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block, New Delhi-110011.
 2. Flag Officer, Commanding-in-Chief
Western Naval Command,
Naval Dock Yard,
MUMBAI-400001.
 3. Sr. Naval Armament Inspector,
West Block No. 5,
R.K. Puram,
New Delhi-110066.
 4. Controller General of Defence Accounts
West Block No. 5,
R.K. Puram,
New Delhi-110066.
- (By Advocate Sh. P.H. Ramchandani)
- Respondents

JUDGEMENT

By Hon'ble Mr. N. Sahu, M(A).

The prayer in this OA is to direct the respondents to re-fix the applicant's pay by applying F.R. 22(C), now renumbered as F.R. 22(1)(a)(i) from 16.7.87, the date on which he was promoted to the post of Sr. Chargeman 'A'. The brief facts are that the applicant worked as a Senior Chargeman in the scale of pay of Rs. 1400-40-1800-EB-50-2300 till he got promoted to the post of Sr. Chargeman on 16.7.87 on the basis of an All India Departmental Trade Test. Both Chargeman and Sr. Chargeman are on the same scale of pay.

[Signature]

The applicant was drawing Rs.1480/- as basic pay as Chargeman(Ammunition). He claimed the benefit of stepping up under F.R.22(C) on becoming the Sr. Chargeman.

2. The respondents contend that F.R.22(C) is not applicable due to merger of the grade of Chargeman(Ammunition) and Sr.Chargeman(Ammunition). The respondents admit that if the pay of the applicant had been fixed under F.R.22(C) he should have received Rs.1560 on 16.7.87.

3. It was contended by the learned counsel for the applicant that the Naval Head Quarters by their letter dated 8.4.94 took the decision that the grades of Chargeman (Ammunition) and Sr.Chargeman(Ammunition) are not^l be merged and they will continue to maintain the respective indentity. Duties of the two grades are distinct and different. The following decisions have been taken:-

- "a) The grade of Chargeman(Ammunition) and Sr.Chargeman(Ammunition) are not to be merged and they will continue to maintain their respective indentity.
- b) Sr.Chargeman will have the Supervisory status while Chargeman shall be responsible to the Sr.Chargeman and carry out the work allotted by the superiors. His status would be determined on his equation with master craftsman."

4. In reply to this respondents stated that this decision of the Naval Hd.Quarters was cancelled on 22.10.96 and this is shown at Annexure R-1. The relevant decision is as under:-

" It is decided that the posts of Senior Chargeman(Ammunition) and Chargeman (Ammunition) in the NAI Organisation

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stand merged, with both posts being in the pay scale of Rs.1400-2300. This is in accordance with the recommendation of the 4th Pay Commission, whereby the posts of Chargeman and Sr.Chargeman were merged in the pay scale of Rs.1400-2300."

5. The admitted facts therefore are that while Chargeman and Sr.Chargeman are on the same scale of pay, Sr.Chargeman admittedly performed higher role over the Chargeman. At least this position continued till 22.10.96.

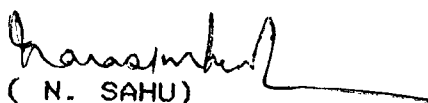
6. In the conspectus of the above facts the Hyderabad Bench allowed the benefit of FR 22(1) (a) (i) in number of OAs. on the point following similar decision of other Benches on the ground of the decision of the Naval Head Quarters letter dated 8.4.94. The basic ground for this decision was ~~given~~ was that when the applicant was posted as Sr.Chargeman although in the same scale of pay as a Chargeman he was appointed to a post carrying duties and responsibilities of greater importance than those attached to the post held by him before the change. Under the rule therefore his pay in the lower post has to be increased by adding one increment at the stage on which said pay has accrued. Thereafter the pay of the Govt. servant should be fixed in the scale of higher post. As all the three conditions namely (i) that he must be holding a post ; (ii) he must be promoted or appointed to any post in a substantive or officiating capacity ; and (iii) the post to which he is promoted or appointed should carry duties and responsibility of greater importance, stand satisfied.

7. The applicant has also brought to our notice a noting of the Law Ministry on all the OAs allowed by CAT, Hyderabad Bench stating that on the finding that the post

of Sr.Chargeman is carrying higher responsibilities, the Tribunal's decision allowing the applicants claim could not be faulted.

8. We have carefully considered the submissions made by rival counsel. At least till 22.10.96 the earlier decision of the respondents dated 8.4.94 held the field and that was although both the posts carried an identical pay scale yet there was no functional merger of the two posts. If we interpret the order dated 22.10.96 as an order of functional merger also, then certainly the case for F.R.22(C) would not arise but till 22.10.96 the admitted position is that the identity of the Chargeman and the Sr.Chargeman are kept distinctly separate and the post of Sr.Chargeman although in the same scale of pay is admittedly one carrying higher responsibilities. Applicant's claim started from 16.7.87. We would with respect follow the decisions of other Benches of the Tribunal cited by the Hyderabad Bench allowing this claim and direct the respondents to refix the pay scale of the applicant by applying F.R.22(1)(a)(i) from 16.7.87 in accordance with the rules. The arrears shall be paid to the applicant within 12 weeks from the date of receipt of a copy of the order.

9. The claim of interest on the arrears is rejected because this is not a case of delay on the part of the respondents on account of any administrative lapse. The OA is allowed to the extent stated above.


(N. SAHU)
MEMBER(A)

RB.


(DR. JOSE P. VERGHESE)
VICE CHAIRMAN(J)