

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1188/1997

New Delhi: this the 11th day of August, 1998.

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

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

A.N.Chakravarty,
S/O Shri Manindranath Chakravarty,
R/o S- IV/290, R.K.Puram, New Delhi-022

.....Applicant.

(By Advocates: Shri K.L.Bhandula)

Versus

Union of India through

1. Secretary,
Ministry of Home Affairs,
New Delhi

2. Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances
& Pensions,
New Delhi

..... Respondents.

(By Advocate: Shri V.K.Mehta)

JUDGMENT

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

Applicant impugns Respondents' OM dated 12.2.97 (Appendix -4) passed pursuant to the CAT PB's order dated 24.12.96 in OA No.1181/92, and seeks stepping up of his pay in the grade of Section Officer at Rs.960/- p.m. in the pre-revised scale of Rs.650-1200 w.e.f. 1.6.83 at par with his junior Shri K.C.Ghosh with consequential benefits and refixation in the revised scale of Rs.2000-3500 with arrears and interest.

2. Admittedly applicant and Shri Ghosh were appointed as Direct Recruit Asstts. in Home Ministry on the basis of Asstts. Grade Exam., 1968 in which Shri Ghosh was placed junior to applicant. On being included in the 1978 Select List (seniority quota)

applicant was appointed as S.O. in MHA whereas Shri Ghosh was appointed as SO in Rural Development Ministry on account of non-availability of vacancy in Home Ministry. Shri Ghosh's pay was stepped up w.e.f. 1.6.83 with reference to his junior Shri A.K. Dey, S.O., Rural Dev. Ministry in accordance with Govt. order No.20 (Finance Ministry's O.M. dated 4.2.66) below FR 22C(Annexure-A).

3. Applicant now claims stepping up of his pay equal to that of Shri Ghosh w.e.f. 1.6.83 on the ground that he was senior to Shri Ghosh in the combined list of SO Grade of CSSS; on the ground of equity and natural justice; and on the doctrine of equal pay for equal work. He asserts that the impugned orders dated 12.2.97 are arbitrary, discriminatory, and violative of the principles of natural justice and Articles 14 and 16 of the Constitution.

4. We have heard Shri Bhandula for applicant and Shri Mehta for respondents. Shri Mehta has also filed written submissions which are taken on record.

5. The CAT Full Bench in the case of B.L. Somayajulu & Ors. Vs. Telecom. Commission & Ors. (1997) 35 ATC 26 dealt with the question as to

- (i) what are the circumstances under which stepping up can be allowed
- (ii) what is the basis on which stepping up can be claimed.

The Full Bench answered the two questions as below:-

- (a) Stepping up can be granted only where there is a provision of law in that behalf and only in accordance with that, and
- (b) a claim for stepping up can be made only on the basis of a legal right and not on pervasive notions of equity unrelated to the context of statutory law.

In para 8 of its aforesaid judgment the Full Bench concluded that the law governing the subject is FR 22C, now FR 22 (1)(a) (1), and only those anomalies that are directly referable to that rule are amenable to the curative process thereunder, namely stepping up and no other. Nothing has been shown by applicant's counsel to us to suggest that the aforesaid Full Bench's judgment has not become final, and we are therefore bound absolutely by that decision.

6. As per Finance Ministry's OM dated 4.2.66 featuring as Order No. 120 below FR 22C and referred to in para 2 of the impugned OM dated 12.2.97, stepping up of pay of a senior with reference to pay of his junior is subject to 3 conditions. It has been contended by respondents that two out of those 3 conditions are not satisfied.

7. Condition (1) is that both the junior and senior Officers should belong to the same cadre. While Shri Bhandula argues that as SO applicant and Shri Ghosh belonged to the same cadre, Shri V.K. Mehta has contended that although ^{initial} recruitment is centralised, at the level of Asstt. & S.O, the cadre is decentralised, and Shri Ghosh upon appointment as S.O in Rural Dev. Ministry, belonged

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to a different cadre. This is explained in paras 5 and 6 of impugned order dated 12.2.97 with reference to Rule 2(e) CSS Rules which defines what is meant by cadre in CSS, and finds support from para 26 of the CAT judgment in Anrit Lal & Ors. Vs. UOI & Ors (1995) 30 ATC 222. There is merit in respondents' contention that stepping of pay of Shri Ghosh as SD in Rural Development Ministry was done under DP& T's OM dated 13.4.88 with reference to his junior in the same cadre in Rural Dev. Deptt., whereas applicant belongs to Home Ministry cadre. For this reason the CAT PB judgment dated 17.4.97 in O A No.480/92 M.S.Jain Vs. UOI & Ors. relied upon by Shri Bhandula also does not help the applicant because in that case Shri Jain as well as the SD with whom he sought pay parity Shri Manjit Kumar, belonged to the same cadre viz. UPSC.

8. Secondly the anomaly is also not directly as a result of the application of FR 22C(Now FR- 22 (1)(a)(1)).

9. In so far as the plea of ' Equal pay for Equal work' is concerned, Shri Mehta has invited ^{our} attention to the Hon'ble ^{Supreme} Court's judgment in State of And. Pradesh Vs. G.Srinivasan Rao (1989)2 SCC 290 wherein they have held that 'Equal Pay for Equal work' did not mean that all members of a cadre must receive the same pay, irrespective of their seniority, ^{Source} ~~some~~ of recruitment, educational qualifications, and various other incidents of service, and when a single running pay scale was

provided in a cadre the constitutional mandate of equal pay for equal work was satisfied.

10. In the circumstance, we find ourselves unable to grant the relief prayed for by applicant. The OA is dismissed. No costs.

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

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

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