

Central Administrative Tribunal
Principal Bench

O.A. 1880/97

New Delhi this the 15th day of April, 1998

(8)

Hon'ble Mrs. Lakshmi Swaminathan, Member(J).
Hon'ble Mr. K. Muthukumar, Member(A).

1. J.K. Vats,
S/o Shri J.D. Sharma,
R/o D-544, Street No. 5,
Ashok Nagar,
Delhi-93.
2. Sarbachan Singh,
S/o Shri Ilam Singh,
D-506/5, Street No.3,
Ashok Nagar, Delhi-93.
3. Avinash Sharma,
S/o Shri B.S. Sharma,
R/o C-3/GII, East Jyoti Nagar,
Loni Road, Delhi-93.

... Applicants.

By Advocate Shri M.K.Gupta.

Versus

1. Government of National Capital Territory of Delhi through its Chief Secretary,
5, Sham Nath Marg,
Delhi-54.
2. The Development Commissioner/
Secretary (Irrigation & Floods),
5/9, Under Hill Road,
Delhi.
3. The Chief Engineer (I&F),
4th Floor, ISBT,
Kashmere Gate,
Delhi.

... Respondents.

By Advocate Shri Rajinder Pandita.

O R D E R

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

The applicants are aggrieved by the action of the respondents in not granting them the scale of pay of Rs.2000-3500 in terms of their letter dated 7.3.1997. The applicants who are working as Junior Engineers (Civil) in the office of Respondent 3 were directly recruited and appointed w.e.f. 30.7.1979, 16.8.1979 and 10.11.1980 respectively.

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They state that they were allowed to cross Efficiency Bar (E.B.) at the stage of Rs.1800/- vide orders dated 23.1.1996 and 17.2.1994 respectively. By the order dated 7.3.1997, the respondents have provided that Junior Engineers who have completed 15 years of service may be granted the pay scale of Rs.2000-3500 w.e.f. 1.1.1991. These scales were allowed subject to the condition of rejection of unfit and vigilance clearance. The applicants claim that these promotions were considered as personal to the incumbents. Shri Mukesh Gupta, learned counsel, has contended that since the applicants were cleared for E.B in 1994 and 1996, there was no reason why after completion of 15 years the applicants should not also be granted the personal promotion in the grade of Rs.2000-3500. All the three applicants have been chargesheeted on 13.1.1998, which according to them, is, after the completion of 15 years service on 1.8.1994, 16.8.1994 and 10.11.1995 respectively. In the circumstances, Shri M.K. Gupta, learned counsel, has submitted that since the applicants have already been granted the scale of Rs.1640-2900 which is also based on fitness and vigilance clearance there was no reason, much less cogent reasons to deny the applicants the higher scale of pay of Rs.2000-3500 in accordance with the letter dated 7.3.1997. He has relied on the judgement in State of Punjab & Ors. Vs. Chaman Lal Goyal (1995(1) SCC 570) and has submitted that the respondents cannot deny them the grade of Rs.2000-3500.

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2. The respondents in their reply have controverted the above facts that the applicants are entitled to the scale of Rs.2000-3500. They have submitted that this is to be treated as a personal promotion subject to vigilance clearance by the DPC. They have, ~~therefore~~, submitted that their action in not granting this pay scale is not mala fide as alleged by the applicants. They have submitted that a decision had been taken by the vigilance department to chargesheet the applicants under Rule 14 of the CCS (CCA) Rules for imposition of a major penalty on 21.2.1995. They have also admitted that some juniors of the applicants have been granted the higher pay scale as they did not have any problem of vigilance clearance. The respondents have submitted that the applicants were allowed to cross E.B. in their old scale before the decision was taken by the competent authority on 21.2.1995 i.e. w.e.f. 1.7.1992, 1.8.1992 and 1.11.1993. Shri Rajinder Pandita, learned counsel, has referred to the memorandum dated 12.5.1982 regarding necessary clearance by vigilance department. He has also submitted that clearance of the E.B. is not a promotion, whereas the personal promotion the applicants are claiming is subject to vigilance clearance. In the circumstances, he has submitted that the applicants who could not obtain vigilance clearance are not entitled to the personal pay scale of Rs.2000-3500 as claimed by them.

3. We have carefully considered the pleadings, including the rejoinder filed by the applicants and the submissions made by the learned counsel.

[Signature]

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4. From the letter dated 7.3.1997, it is seen that consequent upon sanctioning the higher pay scale to the Junior Engineers by the Government of India, a decision had been taken by the respondents to implement the following proposals in the office of Respondent 3:

(1) That 2-tier pay scale be fully implemented w.e.f. 1.1.1986 (i.e. Rs.1640-2900) after 5 years of service.

(ii) That 3-tier system of Rs.2000-3500 after 15 years service may be implemented w.e.f. 01.01.91.

5. In the O.M. dated 17.3.1997, certain guidelines had been issued with regard to giving effect to the letter dated 7.3.1997. Paragraph 2 of the O.M. dated 17.3.1997 is relevant. This provides that w.e.f. 1.1.1991, the Junior Engineers on their completion of 15 years service may be given further higher scale of pay of Rs.2000-3500 on personal basis. It is clearly provided that this personal promotion will be given on fitness basis "subject to vigilance clearance by a DPC". The contention of the applicants' counsel to the contrary cannot be accepted, that being a personal promotion and having cleared the E.B. in the lower grade, the applicants are not further subject to vigilance clearance as this will be clearly contrary to the provisions of the O.M. dated 17.3.1997. The applicants were under vigilance cloud as the vigilance department had taken a decision to chargesheet them under Rule 14 of the CCS (CCA) Rules on 21.2.1995. ^{for major penalty.} The chargesheet against all the three applicants have been filed on 13.1.1998. Therefore, taking

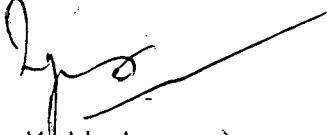
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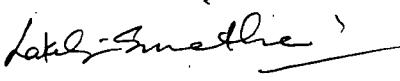
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into account these relevant facts and circumstances, the applicants' claim for promotion on personal basis for grant of scale of Rs.2000-3500 on completion of 15 years of service as Junior Engineers is unsustainable and is accordingly rejected. The judgement relied upon by the applicant's counsel regarding process of balancing the interest of the parties is not applicable to the facts of this case. The action of the respondents in not granting the higher scale of Rs.2000-3500 to the applicants cannot be faulted as arbitrary or illegal or contrary to the relevant rules/instructions justifying any interference in the matter.

6. In the result, for the reasons given above, the application fails and is dismissed. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

"SRD".