

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA No. 2879/97

New Delhi, this the 21st day of May, 1998

Hon'ble Shri T. N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

In the matter of:

H.V. Dobriyal s/o late Sh.D.N. Dobriyal,
1-82, Sarojini Nagar,
New Delhi.

...Applicant

(In Person)

Versus

1. Director General,
All India Radio, Bhawan,
Akashvani Bhawan,
New Delhi.
2. Director General (News),
News Services Division,
All India Radio,
Broadcasting House,
New Delhi.
3. Secretary,
Ministry of Information &
Broadcasting, Shastri Bhawan,
New Delhi.
4. Ms Elsie D.,
Stenographer Gr. II,
News Services Division,
All India Radio,
Broadcasting House,
New Delhi.

...Respondents

(By Advocate: Shri K.R. Sachdeva)

O R D E R (ORAL)

HON'BLE SHRI T.N. BHAT, MEMBER (J)-

We have heard the applicant, who is present in person, and Shri K.R. Sachdeva, counsel appearing on behalf of the respondents on the merits of the O.A. and, with their consent, we are disposing of the O.A. at the admission stage itself.

[Signature]

2. The applicant in this O.A. is claiming stepping up of his pay at par with the pay received by his junior, namely, Ms Elsie D., respondent no. 4 herein. Admittedly, respondent no. 4, who was junior to the applicant in the grade of Stenographer Gr. III, had been granted ad hoc promotion to the higher grade earlier to the ad hoc promotion granted to the applicant. Subsequently, the services of both of them were regularised w.e.f. 5.1.1987. However, respondent no. 4 continued to draw higher emoluments than the applicant in consequence of the ad hoc promotion granted to her before it was granted to the applicant. According to the applicant, this is an anomaly which should be corrected and the applicant's pay should be brought at par with the pay received by respondent no. 4.

3. Learned counsel for the respondents relies upon the judgement of the Apex Court in the case of UNION OF INDIA AND ANR. VS. R. SWAMINATHAN AND ORS., reported in 1997 (7) SCC 690 wherein it has been held that where ~~a~~ juniors ^{are} officiating in promotional post on account of their local ad hoc promotion while seniors are not so officiating and, as a consequence, the junior is getting higher pay, this would not amount to an anomaly recognised by Government of India orders so as to warrant stepping up of the pay of the senior. It has further been held that in order to attract the principle of stepping up of pay, it must be shown that the anomaly is a direct result of application of FR 22-C (now FR 22(I)(a)(1)).

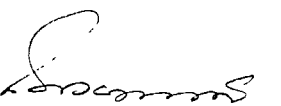
4. The applicant was given sufficient time to meet this point and a copy of the Apex Court judgement was also made available to him. Today, he produced before us written submissions which have been taken on record. It appears that the applicant has attempted to highlight the


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distinguishing features of his case from the facts of the case before the Apex Court. We have carefully gone through these written submissions and have also considered the oral submissions made by the applicant today. We do not really find any point of distinction that could make the judgement of the Apex Court inapplicable to the facts and circumstances of the instant case. The fact that respondent no. 4 had been granted ad hoc promotion wrongly and the applicant was not informed of the same at the appropriate time cannot give any benefit to the applicant so far as the prayer claimed in the instant case is concerned. This could have given a cause of action for assailing the ad hoc promotion of the respondent no. 4 before the ad hoc promotion was granted to the applicant. But this is an old story now and any challenge made now would be barred by limitation. The fact remains that it was due to ad hoc officiating service rendered by respondent no. 4 that she started getting higher salary than the applicant and continues to do so even now. As held by the Apex Court in R. Swaminathan (Supra), this cannot be held to be an anomaly in the strict sense of the term as it would not be an anomaly as a result of direct application of FR 22 (I)(a)(1).

5. Therefore, applying the principle enunciated by the Apex Court in the case of R. Swaminathan (Supra) we hold that there is no merit in the claim of the applicant in this O.A. The O.A. is accordingly dismissed leaving the parties to bear their own costs.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)
21.5.98