

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No. 322/1994

New Delhi, dated the 12th July, 1995

(X)

Hon'ble Shri N.V. Krishnan, Vice Chairman (A)  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Shri R.C.H. Asnani,  
s/o Shri H.T. Asnani,  
R/o J-12/16, Rajouri Garden,  
New Delhi.

2. Sh. Surender Singh  
s/o Shri Jugal Kishore Verma,  
r/o C-3A/124-C, Janakpuri,  
New Delhi.

... Applicants

(By Advocate Shri R. Doraiswamy with  
Shri Sant Singh)

Vs.

Union of India- Through :

1. Secretary to Govt. of India  
Dept. of Supply, 'C' Wing,  
Nirman Bhawan, New Delhi-11

2. Director General of Supplies  
and Disposals, No.5, Sansad Marg,  
Jeewan Vihar Building, N/Delhi-1

... Respondents

(By Advocate Shri N.S. Mehta, Senior  
Counsel )

O R D E R (ORAL)

(Hon'ble Shri N.V. Krishnan, Vice Chairman (A)

The applicants were working as Assistant  
in the pay scale of Rs 2000-3500  
Directors, Grade-II/in the office of the Director  
General of Supplies and Disposals, respondent No.2.  
They were promoted on ad hoc basis w.e.f. 15.2.90 as  
Assistant Directors Supplies Grade-I which is in the  
higher pay scale of Rs 2200-4000. They are aggrieved by  
the order of pay fixation issued by the respondents on  
12.1.1994 (Annexure A-1(i)). According to that order  
it is stated that the applicants were reverted from  
15-2-1991 as Assistant Directors Grade-II. They were  
again promoted on ad hoc basis from 5-3-1991 as

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Assistant Directors Grade-I. Again they were reverted w.e.f. 1.7.92 by the order dated 30-7-92. In accordance with these promotion and reversions, their pays were re-fixed because earlier they had continued to draw pay as Assistant Directors, Grade-I in the scale of Rs 2200-4000 without interruption, though there were two reversions in between. The order also directs re-fixation of pay on the <sup>existing</sup> above basis and effect, recovery thereafter.

2. The applicant, therefore, have filed this O.A. for quashing these orders and grant all consequential benefits.

3. Respondents have filed a reply denying this claim. They have annexed all the orders of the promotion and reversion on the basis of which the impugned order Annexure A-1(i) is issued. It is seen therefrom that the ad hoc promotion was first ordered on 15.2.1990 (Ann-1) for a period of one year or till regular appointments are made, whichever is earlier. Consequently they were reverted w.e.f. 15.2.1991 by the office order dated

14.2.1991 (Annexure-IV). Annexure A-V notification dated 13-3-1991 promoting <sup>ed</sup> the applicant No.1 (RCH Asnani) on ad hoc basis w.e.f. 5.3.1991 for one month and subsequently, this was extended upto 4th July, 1991 by the Annexure-VI(notification). It has to, mentioned <sup>be</sup> here that the benefits of this order was given only to applicant R C H Asnani and not/ the other applicants.

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On 30-7-92 a notification (Ann.VII) was issued which continued the ad hoc promotion of 15 persons including the two applicants. The appointment of applicant Shri R.C. H.Asnani was continued from 4-7-1991 to 30-6-1992 but appointment of Sh.Surinder Singh was made from 5-2-1991 to 4-7-1991 and then continued from 4-7-91 to 30-6-92 (Annexure A-VII).

Annexure A-VIII notification dated 30-7-92 is regarding the appointment on regular basis of 14 persons as Assistant Directors, Grade-I from 13.5.1992.

4. The case of the respondents is, in view of the two reversions made, the applicants cannot get benefits of the pay scale of Assistant Directors Grade-I for those periods. It is further stated that, on the regular appointment of 14 persons by the Annexure A-VIII notification, service of the ad hoc employees was not required w.e.f. from the dates mentioned in the Ann.A.VII notification. In otherwords, in respect of the two applicants, Annexure A-VII notification continued their appointment only upto 30-6-92. Thereafter, they stood reverted because regular employees had been appointed. Therefore, they were not entitled to higher pay scale w.e.f. 1.7.92. Hence the impugned order Annexure A-1 order was passed. It is quite proper.

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applicants have been reverted w.e.f. 1.7.92 as also on 5.2.1991 Annexure VII notification makes it clear that ad hoc appointments of the applicants were continued upto 30-6-1992 only. It is true that the order has been sent for publication in the Gazette of India and therefore, applicants are presumed to know its contents. That would be the legal effect. That does not necessarily mean, that the applicant and that the concerned authorities also ensured the compliance of office order w.e.f. 1.7.92 by allocating the work of only Assistant Directors, Grade-II to the applicants. On the contrary, there is no record to prove this contention. Again, it is quite clear, that from 4.7.91 upto which ad hoc appointment continued by virtue of the Annexure VI order dated 9.4.91, number of persons including applicant Asnani had continued to work without orders as Assistant Directors Grade-I ~~in respect of that period~~ <sup>for various</sup>. The necessary orders

has been passed only to 30-7-92. Therefore the plea of the applicants that they worked as Ass. Dir. Grade-II is plausible.

8. In the circumstances, we are unable to accept the plea of the respondents that on 1.7.92, the ~~they were actually deputed and that they~~ applicants are entitled to only the pay scale of Assistant Directors, Grade-II. In our opinion, the plea of the applicants that they have been working as Assistant Directors, Grade-I without any extension order seems

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be  
to plausible and this is borne out by erratic and

belated orders passed by the respondents in this case.

If, therefore, the applicants had worked as Assistant Directors, Grade-I. even though, there were no orders, in this regard, they are entitled to draw pay in the higher pay scale.

9. We, therefore, feel that in the interest of justice, applicants should be saved from burden of the recovery which has been ordered by the impugned order. We feel that reversion has been properly ordered w.e.f. 1.7.92, which apparently had not been given effect to in the office and hence the applicants continued to work on the higher pay scale. We had given an interim direction on 4-3-1994 restraining recovery of overpayment and maintenance of status quo. Therefore, the applicants have continued to work as Assistant Director Grade-I. One of them has also since retired.

In the circumstances, we dispose of the OA as follows:-

- (i) We hold that the impugned order and Annexure A-1 (i) dated 12.1.1994 is legal.
- (ii) However, that order will, in effect, be notional, except to the extent indicated in (iii) & (iv) below and accordingly, no recovery shall be made from the applicants of the over payments made till the impugned order was passed, in terms of that order.
- (iii) In respect of the applicant, Shri R.C.H. Asnani who has retired on 30.9.94 his

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pensionary benefits shall be calculated only on the basis of the pay fixation done for various periods in the impugned Ann.A.1(i) order. The retiral benefits, if not already released, shall now be disbursed within two months from the date of receipt of this order.

(iv) In respect of the applicant, the impugned order shall be effective only in so far as it concerns his pay from 12.1.1994, which shall be in terms of that order.

(v) No costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

*N.V. Krishnan*  
(N.V. Krishnan )  
Vice Chairman (A)