

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI

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OA.No.782 of 1994

(3)

Dated New Delhi, the 18th August, 1994

Hon'ble Mr. A.V. Haridasan, Member (J)

R.K. Bhardwaj,
R/o 1023, Baba Khark Singh Marg,
New Delhi.

Applicant

By Applicant in person.

VERSUS

Union of India, through:

1. The Secretary,
Ministry of Communications,
Sanchar Bhavan,
20, Ashoka Road,
New Delhi.
 2. The Advisor (HRD),
Department of Telecommunications,
Sanchar Bhavan,
20, Ashok Road,
New Delhi
 3. The Deputy Director General (Estt.),
Department of Telecommunications,
Sanchar Bhavan,
20, Ashok Road,
New Delhi.
- Respondents

By Advocate: None

O R D E R (Oral)

(Hon'ble Mr. A.V. Haridasan, M(J))

This is an application filed under Section 19 of the CAT Act, 1985. The grievance of the applicant is that the respondents have not responded to his legitimate request for stepping up of his pay in tune with the pay of his junior, Shri P. Panjiyara. The applicant filed a representation dated 4.2.1993 (annexure A-4) against the order of the respondents (annexure A-3) but the respondents did not at all respond to the same. The

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applicant therefore prays that the respondents may be directed to step up his pay from Rs.2240/- to Rs.2675/- in the time-scale of Rs.2000-3500. The material averments of the case are as follows:

2. The applicant joined the erstwhile Posts & Telegraphs Department as Time-Scale Clerk on 5.6.1955, while Shri P. Panjiyara joined the same cadre on 28.8.1962. Both of them qualified the All India Competitive Examination for promotion to the post of Telegraph Traffic Supervisor (TTS) Class-III in the year 1972. The applicant was at Sl. No.29 while Shri Panjiyara was at Sl. No. 62 of gradation list circulated vide circular dated 28.11.1972 (annexure A-1). The applicant was appointed as TTS Group 'C' on 7.1.1974 and his basic pay was fixed at Rs.425/- while Shri Panjiyara was appointed as TTS Group 'C' on 9.1.1974. The applicant was promoted to the post of TTS Group 'B' w.e.f. 27.10.1986 while Shri Panjiyara was promoted as TTS Group 'B' vide order dated 28.7.89 and Shri Panjiyara joined on the post w.e.f. 1.9.1989. But the basic pay of Shri Panjiyara was fixed at Rs.2675/- w.e.f. 1.9.89 whereas the applicant's pay was fixed at Rs.2240/- as on 1.9.89. It is thus that the grievance of the applicant has arisen.

3. The applicant contends that on the basis of entry in the initial cadre of Clerk and on the basis of ^{the date of} promotion to TTS Group 'B' by qualifying in the competitive examination, the applicant is senior to Shri Panjiyara and therefore his pay should have been stepped up in tune with that of Shri Panjiyara w.e.f. 1.9.1989. Requesting for this stepping up, applicant made a representation on

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4.2.1993 (annexure A-4). The respondents did not bother to respond to this representation at all. It is under these circumstances that this application has been filed.

4. The respondents were given several opportunities to file their reply. Vide order dated 20.7.1994 the respondents were given a final opportunity and it was made clear in that order that if they did not file a reply or appear in person before the Tribunal, they would forfeit their right to file the counter. Even in spite of that it is seen that the respondents have neither appeared nor filed their reply to the OA. The respondents have therefore forfeited their right and it is deemed that they are not interested in contesting the application.

5. However, the grievance of the applicant is that his junior Shri P. Panjiyara is drawing higher pay. It is not understood as to how such a situation arose. On a query with the applicant I understand that the said Shri Panjiyara happened to be promoted to the higher post on ad hoc basis before his regular promotion to TTS Group 'B' on 1.9.1989 and it was therefore that his basic pay on the regular appointment to TTS Group 'B' got fixed up at Rs.2675/- . It is evident that when Shri Panjiyara was given ad hoc promotion to TTS Group 'B', such an offer was not given to the applicant and therefore there is no

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justification for not allowing his request for stepping up of his pay in tune with his junior Shri Panjiyara. The respondents have not only refused to respond to the representation filed by the applicant but have also disregarded the notice issued by this Tribunal thereby showing scant regard for the proceedings before the Tribunal. Therefore, I am left with no alternative but to decide the application on the basis of the allegations made in the application deeming that the respondents are not at all interested in controverting the allegations and resisting the claims. The factual averments in the application, that Shri Panjiyara was junior to the applicant eversince he joined service and that the applicant is drawing less pay than the said junior in the cadre of TTS Group 'B', have to be accepted as correct.

6. In accordance with the provisions contained in FR 22(c) and DG P&T's instructions as also the Ministry of Finance O.M. No.T-2(10)-E.III(A)-62 dated 26.6.1965, the pay of the senior has to be fixed up in level with the pay of the junior drawing a higher pay. These instructions are intended to set right the anomaly caused by the junior drawing a higher pay on account of a varied reasons such as junior officiating in a higher post without giving such an opportunity to the senior, and by giving advance increments to the junior, etc. In case the pay of the senior has become less than that of the junior as a result of the disciplinary proceedings (against the senior), the

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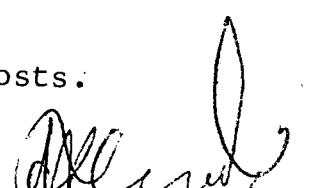
senior will not be entitled to have his pay stepped up.

But in the instant case no disciplinary proceedings have been initiated or ~~were~~ pending against the applicant. If the junior and the senior have been working in the same cadre in the lower post as well as higher post in the same pay-scale and if the junior had been drawing lower pay than the senior in the lower cadre, the pay of the senior has to be stepped up in tune with ^{that of} the junior, if on promotion the junior is getting higher pay than the senior.

7. In the conspectus of the above facts and circumstances and the rule position, I have no hesitation to conclude that the pay of the applicant should be stepped up in level with the pay of his junior, Shri Panjiyara.

8. In the light of what has been stated in the foregoing paragraphs, I allow this application and direct the respondents to fix the pay of the applicant w.e.f. 1.9.1989 stepping it up in level with the pay of Shri Panjiyara, who is junior to the applicant, and also to pay the applicant all consequential ^{monetary} benefits within a period of three months from the receipt of a certified copy of this order.

9. Parties are left to bear their own costs.


(A.V. Haridasan)
Member (J)