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Central Administrative Tribunal, Principal Bench
New Delhi

O.A. No.2098/2000

New Delhi this the 6th day of July, 2001

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M. P. Singh, Member (A)

Bhika Ram S/o Late Sh. Ghurey Lal,
Assistant Engineer (Mechanical)
Irrigation & Flood Control,
(Mechanical Division -I)
Govt. of N.C.T. of Delhi
Offick Complex, Nangloi,
Near DTC Depot,
New Delhi
R/o Qur. No.888, Type-III,
Gulabi Bagh,
Delhi-110007.

- Applicant

(By Advocate: Shri Y.R. Malhotra)

Versus

1. Govt. of National Capital Territory of Delhi
Through its Chief Secretary (I & F)
5, Shham Nath Marg,
Delhi.
2. The Chief Engineer
IVth Floor, I.S.B.T., Building,
Kashmere Gate, Delhi-110006.
3. The Suprintending Engineer
Flood Control Dept. (FC-IV),
Office Complex Basai Dhara Pur,
Near ESI Hospital, Delhi.
4. Shri P.S. Batola, J.E.
5. Sh. P.K. Vashisth, J.E.
both respondent No. 4 & 5
through Executive Engineer (MD-II),
9th Floor MSO Building, I.P. Estate,
New Delhi.

- Respondents

(By Advocate: Shri V. Pandita)

O R D E R

Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this OA is aggrieved by the
order dated 19.5.97 passed by respondent No.2 vide
which some of the juniors have been granted time pay

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scale of Rs.1640-60-2600-75-2900. The applicant alleges that he has been ignored for consideration for being granted the above said time pay scale. He has also made various representations which are still pending.

2. The facts, as alleged by the applicant in brief are, that he was appointed as Junior Engineer (Mechanical) w.e.f. 14.12.1979 and on 1.1.1986 consequent to the implementation of the recommendations of the 4th Central Pay Commission the pay of the applicant was fixed as Rs.1560/- per month in the pay scale of Rs.1400-2300.

3. However, on 17.3.97 respondent No.2 issued an OM whereby it was directed that all the JEs of the Irrigation and Flood Control Department on completion of 5 years of service in the grade of pay scale of Rs.1400-2300 be placed in the higher grade of time pay scale of Rs.1640-2900 by DPC. The said OM is relied upon by the applicant and is annexed as Annexure A-1. It is stated that several DPCs have been held and many of the junior persons have been given the higher pay scale of Rs.1640-2900 but the applicant has been ignored.

4. He further states that in May, 1996 the applicant was promoted to the post of Assistant Engineer whereas his junior respondent Nos. 4 and 5 who were still JEs were given the higher pay scale. The applicant further alleges that he has been ignored

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for being grant of higher pay scale of Rs.1640-2900 without any rhyme and reason so his case should be considered and he has prayed that a review DPC should be held and he should be granted pay scale of Rs.1640-2900 w.e.f. 1.1.1986 as he has already completed 5 years of service as Junior Engineer.

5. Respondents have filed their reply and pleaded that OA is not maintainable since the applicant had been suspended w.e.f. 16.6.2000 before the date of filing of this OA and DPC has considered the case of the applicant for grant of time scale on 22.12.2000 and as such the OA is liable to be dismissed and particularly in view of the fact that granting of time scale in view of the OM dated 17.3.97 is subject to rejection of unfit and vigilance clearance of the candidate is also to be obtained.

6. The respondents have also pleaded that on receipt of the representation dated 28.6.97 the DPC asked for requisite record but in the meantime the applicant was suspended w.e.f. 16.6.2000 and during the proceeding of the DPC for time pay scale to JE's on 22.12.2000 the name of the applicant was considered but rejected as he was not given vigilance clearance and this fact has been admitted by the applicant himself in his letters dated 23.2.2000 and 22.5.2000.

7. The respondents further submitted that it is a case of promotion and not stepping up of pay as alleged by the applicant.



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8. The other plea of the respondents is that since in the year 1997 the applicant was holding the post of Assistant Engineer as he had already been given promotion, so his case was not considered.

9. We have heard the learned counsel for the parties and gone through the records of the case.

10. As far the case of the applicant is concerned the applicant seems to be aggrieved of an order dated 19.5.97 when certain juniors to the applicant were considered for grant of higher pay scale to those Junior Engineers who had already rendered 5 years of service and after holding a DPC colleagues of the applicant had been placed in the scale of Rs.1640-2900. In the said DPC some juniors particularly Shri P.S. Batola who, is shown at S.No.7 of the order dated 19.5.97, is stated to be junior to the applicant but had been placed in the higher pay scale of Rs.1640-2900. The case of the department is that by that date the applicant had already been promoted to the post of Assistant Engineer, so in the said DPC of 1997 his case was not considered and thereafter when the applicant made representation his case was considered in the DPC held on 22.12.2000 but by that time the applicant had been suspended vide order dated 16.6.2000 and as his vigilance clearance was not forthcoming so on that ground he was not allowed higher pay scale. To our mind, both these contentions raised by the respondents have no merits because the applicant is entitled to be considered for grant of higher pay scale when his juniors, i.e.

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respondent Nos. 4 and 5 have been granted higher pay scale in the year 1997 itself. A perusal of paragraph 1 of the OA shows that the applicant has challenged DPC proceedings of the year 1997 when certain juniors to him particularly respondent Nos. 4 and 5 had been granted the higher pay scale of Rs.1640-2900. There is nothing in the pleadings of the respondents as to why the applicant has not been considered in the DPC of 1997.

11. The other plea of the respondents is that the case of the applicant was considered in the DPC of 22.12.2000. As far that plea is concerned, we find that the applicant was entitled to be considered in the DPC when his juniors were considered and respondents cannot deny to the applicant his right to be considered for the grant of pay scale to him till December, 2000 when fresh DPC was held as it would amount to an unwarranted delay and postponing the considering of his case though he was due to be considered along with his juniors in the year 1997 itself.

12. Hence, we find that none of the contentions raised by the respondents have any merits.

13. As regards the vigilance report is concerned, we may mention that according to the respondents the applicant was suspended on 16.6.2000 whereas the case of the applicant is that in the year 1997 when the respondents have taken a decision to grant a higher pay scale w.e.f. 1.1.1986 the applicant was not under any clouds of vigilance because till then he had not received any adverse remarks so in this background we feel that the

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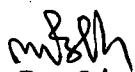
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applicant has a sound case and he is entitled to be considered for grant of higher pay scale when the case of his juniors were considered.

14. Accordingly, the OA is allowed with the following directions:-

(i) The respondents are directed to convene a review DPC and shall consider the case of the applicant for grant of higher pay scale w.e.f. date when his immediate juniors were granted higher pay scale in accordance with their OM dated 17.3.1997 and rules and instructions on the subject. This exercise may be completed within a period 3 months from the date of receipt of a copy of this order.

(ii) No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

/Bakesh/