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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2695/2000

This the 22nd day of March, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Umesh Kumar S/O Shanti Swarup,
working as SCMA in the Office of
Respondent No.3 and
R/O House No.192, V.&P.O.Burari,
Delhi-110084.

... Applicant

(By Shri S.C.Luthra, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi-110011.
2. Flag Officer,
Commanding-in-Chief,
Western Naval Command,
Naval Dock Yard,
Mumbai-400001.
3. Naval Armament Inspecting Officer,
West Block No.5, R.K.Puram,
New Delhi-110066.

... Respondents

(Shri P.P.Relhan for Shri J.B.Mudgil, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant assails order dated 29.9.2000 (Annexure A-1) whereby his request to extend benefit of FR 22(I) (a)(i) on his promotion as Senior Chargeman (Ammunition) (SCMA) has been rejected.

2. Applicant was working as Chargeman in the scale of Rs.1400-2300. He was promoted to the post of SCMA on 25.11.1994 (Annexure A-2) which carries the same pay scale, i.e., Rs.1400-2300 (pre-revised). His basic pay

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at the time of his promotion was Rs.1760/- per month as Chargeman. Learned counsel of applicant stated that in terms of standing order (Annexure A-4), the post of Senior Chargeman carries higher responsibilities than those of a Chargeman. Thus, applicant should be given benefit of FR 22(I)(a)(i) in the matter of pay fixation on promotion. Learned counsel places reliance on order dated 9.1.1998 in OA No.2602/1996 : D.N.Prasad v. Union of India, for grant of benefit under FR 22(I)(a)(i) to applicant. In the aforesaid order, it is stated that the Naval Headquarters by their letter dated 8.4.1994 took the decision that the grades of Chargeman (Ammunition) and Sr. Chargeman (Ammunition) were not to be merged and that they would continue to maintain the respective identity. However, this decision was changed and by another decision dated 22.10.1996 the two posts were merged. It was held that though the scales of pay of these two posts are now different, admittedly, the post of Sr. Chargeman (Ammunition) carries higher responsibilities than the post of Chargeman. Respondents were directed to "refix the pay scale of the applicant by applying F.R.22(1)(a)(i) from 16.7.87 in accordance with the rules. The arrears shall be paid to the applicant within 12 weeks from the date of receipt of a copy of the order." The claim of interest on the arrears was rejected.

3. Learned counsel of respondents, Shri P.P.Relhan, stated that the posts of Sr. Chargeman and Chargeman were merged w.e.f. 22.10.1996. He relied on order dated 25.11.1999 in OA No.728/1999 : Anantray

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Jatashankar Joshi & Ors. v. Union of India & Ors. (Mumbai Bench), wherein the benefit of fixation of pay in terms of FR 22(I)(a)(1) was denied in a similar case on the ground that Chargeman (Ammunition) and Sr. Chargeman (Ammunition) are no longer two separate cadres and have been merged into one cadre carrying one scale of pay.

4. In the case of Anantray Jatashankar Joshi (supra), the Tribunal had placed reliance in turn on a decision of the Supreme Court in Defence Estate Employees' Association v. Union of India, 1998 SCC(L&S) 1623. The Supreme Court had found that provisions of FR 22-C {FR 22(I)(a)(1)} do not apply to Civilians in the Defence Service.

5. Ministry of Defence vide their memorandum dated 15.9.1967 had taken a decision that the orders relating to grant of dearness, compensatory (city) and house rent allowances etc., issued by the Ministry of Defence would be automatically applicable to the civilians paid from Defence Services Estimates. In respect of Fundamental Rules and Supplementary Rules quoted in the relevant Government orders, ^{it is provided that by} the corresponding provisions in CSR would apply so far as Defence Civilians are concerned. Article 156-A in the Civil Services Regulations (CSRs) relates to fixation of initial pay. It reads as follows:

"156 A. Notwithstanding anything contained in these Regulations, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the



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post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued, provided that :-

- (i) where a Government servant immediately before his promotion or appointment to the higher post was drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time-scale of the higher post shall be fixed at the stage in that time scale next above such maximum in the lower post.
- (ii) the provisions of the Article shall not apply where a Government servant holding a class I (Group A) post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to higher Class I (Group A) post.
- (iii) the provisions contained in Article 107 shall not be applicable in any case where the initial pay is fixed under this article."

6. As per Naval Headquarters letter dated 8.4.1994, "Senior Chargeman will have the supervisory status while Chargeman shall be responsible to the Senior Chargeman and carry out the work allotted by the Superiors. His status would be determined on his equation with master craftsman". Obviously, the duties of Senior Chargeman being supervisory are higher than those of Chargeman. Even though the two scales of Senior Chargeman and Chargeman may have been merged, the duties and responsibilities of the two posts have remained different and the duties of Senior Chargeman are stated to be higher. In the case of Anantray Jatashankar Joshi (supra) this factum had escaped notice of the Tribunal. Although Supreme Court in its decision in Defence Estate Employees' Association (supra) has stated that FR 22-C

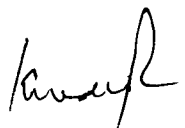
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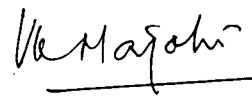
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would not be applicable to the Defence Civilians, Article 156-A ibid in the light of Ministry of Defence decision is certainly applicable to such employees. These provisions are para materia to those of FR 22(I)(a)(1).

7. In the light of the above discussion, in our view, as applicant has been discharging higher responsibilities on his promotion to the post of Senior Chargeman since 25.11.1994, he is entitled to benefit of pay fixation in terms of Article 156-A which has been reproduced above. Thus, even though the posts of Senior Chargeman and Chargeman are in the same scale of pay, as the post of Senior Chargeman carries higher responsibility, applicant is held entitled to benefit under Article 156-A. Accordingly, we direct respondents to refix the pay of applicant by applying Article 156-A from 25.11.1994 in accordance with rules. However, the consequential arrears shall be effective from 18.12.1998 when applicant made representation for refixation of his pay. These arrears shall be paid to applicant within twelve weeks from the date of service of these orders on respondents. The claim of interest on the arrears is rejected.

8. The OA is disposed of in the aforestated terms.
No costs.


(Kuldip Singh)
Member (J)


(V. K. Majotra)
Member (A)

/as/