

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1006/2000

WITH

O.A.NO.988/2000

New Delhi, this the 27th day of November, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

OA No. 1006/2000

Dr.(Mrs) Indrani Chandrasekharan,
Wife of Dr. H. Chandrasekharan
Working as Additional Director (S)
In the Office of Ministry of Environment and
Forest, Government of India
Pariyavaran Bhawan, C.G.O. Complex,
Lodhi Road, New Delhi 110 003
R/o Q-9, Andrewsganj Extension
New Delhi - 110 049

... Applicant

(By Advocate : Shri V. Shekhar)

Versus

1. Union of India, through
Secretary,
Ministry of Environment and Forest
Pariyavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi-3
2. Secretary,
Department of Personnel and Training
Personnel, Public Grievance and Pension
Government of India,
North Block
New Delhi - 110 001

.. Respondents

(By Advocate : None)

OA No. 988/2000

Dr.(Mrs) Nalini Bhat,
Wife of Dr. T.P. Bhat,
Working as Additional Director (S)
In the Office of Ministry of Environment and
Forest, Government of India
Pariyavaran Bhawan, C.G.O. Complex,
Lodhi Road, New Delhi 110 003
R/o 806, Asia House
New Delhi - 110 01

... Applicant

(By Advocate : Shri V. Shekhar)

Versus

1. Union of India, through
Secretary,
Ministry of Environment and Forest
Pariyavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi-03

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2. Secretary,
Department of Personnel and Training
Personnel, Public Grievance and Pension
Government of India,
North Block
New Delhi - 110 001

..Respondents

(By Advocate : None)

O R D E R

These two OAs involve common issue of law and fact and are, therefore, taken up together for disposal by this common order.

2. Since none was found to be present on behalf of the respondents even on the second call, I have heard the learned counsel appearing on behalf of the applicant and proceed to dispose of these OAs in terms of Rule 16 of the CAT (Procedure) Rules, 1987

3. The applicant in OA No.1006/2000 joined as Scientist SE in the Ministry of Environment and Forest (MoEF) in December 1988 in the pay grade of Rs.3700-5000. She was promoted under the Flexible Complimenting Scheme (FCS) to the post of Scientist (SF)/Additional Director w.e.f. 30.8.1994. By order dated 4.1.1995 her pay was fixed at Rs.4,500/- w.e.f. 30.8.1994. The post of Scientist (SF) carried the pay scale of Rs.4500-5700/-. Her pay was fixed at Rs.4,500/- in accordance with FR-22(1)(a)(i). The aforesaid pay scale of Rs.4500-5700/- was, in consequence of 5th Central Pay Commission's recommendations, revised to Rs.14300-400-18300 w.e.f. 1.1.1996. Vide respondents' order dated 10.10.1997, the pay of the applicant was fixed in the aforesaid revised scale of pay in accordance with the CCS (RP) Rules, 1997

(Annexure-D). The applicant's pay was accordingly fixed at Rs.14,300/- with the date of next increment shown as 1.12.1996 and her pay after the next increment shown as Rs.14,700/-. She is aggrieved by this pay fixation on the ground that the pay of one Dr. H. Ahmed, who is her junior, was fixed at Rs.14,700/- w.e.f. 1.1.1996 with the date of next increment shown as 1.1.1997 and the pay after the next increment shown as Rs.15,100/-. She accordingly represented on 11.11.1997. According to the applicant, her pay was fixed at Rs.4,650/- as on 1.12.1994 whereas Dr. H. Ahmed's pay was also fixed at the same level (Rs.4,650/-) as on 1.1.1995. In this way the said Dr. H. Ahmed was her junior. The said representation was turned down on 20.5.1998 (Annexure-F) on the ground that under the FCS there is no concept of inter-se seniority and accordingly stepping up of her pay so as to become equal to that of Dr. H. Ahmed could not be allowed. The aforesaid decision was conveyed after due and proper consultation with the DOP&T and the Ministry of Finance. The applicant represented further on 24.9.1998 and February 2000. This time she brought to the notice of the respondents the cases of juniors such as Dr. A. Duraiswamy, Dr. M.A. Haque and Dr. Sunita Auluck (Annexure-G). The aforesaid juniors were promoted under the FCS a year after the applicant had been promoted. Annexure-G shows while the applicant joined as Scientist (SF)/Additional Director on 30.8.1994, the aforesaid three juniors respectively joined as Scientists (SF)/Additional Director on 1.3.1995, 1.6.1995 and 1.6.1995. Despite the aforesaid position, each one of the aforesaid junior was getting a basic pay of Rs.15,500/- on date, whereas the applicant was getting Rs.15,100/- only.

In the absence of a favourable decision, the applicant filed a further representation and on this occasion she found support in the order of this Tribunal dated 11.2.1994 passed in OA No.1820/1993 in the case of Dr. Deo Pal Vs. ICAR. The aforesaid representation has also been rejected by the impugned Office Memorandum dated 31.3.2000 (Annexure A), reiterating the earlier ground that the concept of inter-se-seniority did not exist under the FCS and, therefore, the advantage of proviso 2 to rule 8 of the CCS (RP) Rules, 1997 could not be given. The aforesaid impugned order further provided that the benefit of the order passed by this Tribunal in the aforesaid OA could not be extended to the applicant since she was not a petitioner in that OA. The aforesaid order has been passed after consulting the DOP&T.

4. The facts and circumstances revealed in OA No. 988/2000 are totally similar to the facts and circumstances obtaining in the aforesaid OA No. 1006/2000. I do not find it necessary, therefore, to recapitulate the facts revealed in OA No. 988/2000.

5. I have considered the matter carefully in the light of the submissions made by the learned counsel for the applicants and have perused the material placed on record by the parties.

6. The respondents, I find, have taken only two grounds for rejecting the claims of the applicants. One is that since under the FCS there is no concept of inter-se seniority, the benefit of proviso 2 to rule 8 of the CCS

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(RP) Rules, 1997 could not be given to the applicants. The other ground taken is that since the applicants were not petitioners in OA 1820/1993 decided by this Tribunal on 11.11.1994, they could not take advantage of the aforesaid judgement.

7. Insofar as the first ground taken by the respondents is concerned, I find the same as entirely unconvincing. After all, by virtue of promotion under the FCS, the applicants have been placed in a higher post as well, namely, that of Scientist (SF)/Additional Director. Previously they held the rank of Scientist (SE)/Joint Director. Furthermore, the aforesaid proviso 2 to rule 8 of the CCS (RP) Rules, 1997 nowhere excludes consideration of such claims. On the other hand, properly construed, it provides the reliefs sought herein in clear enough terms. According to the respondents themselves, the aforesaid second proviso provides that "the next increment of the Government servant, whose pay is fixed on 1.1.1996 at the same stage as the one fixed for another Government servant junior to him in the same cadre and drawing pay at a lower stage than his senior in the existing scale, shall be granted on the same date as admissible to his junior if the date of increment of the junior happens to be earlier". The applicants as well as their juniors had their pay fixed at Rs.14,300/- as on 1.1.1996 and the aforesaid juniors were supposedly drawing pays at a lower stage of pay than the applicants in the existing scale, namely, the scale applicable to the post of Joint Director. Viewed thus, the applicants should be granted next increment on the same date on which next increment became admissible to the

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juniors. The juniors to the applicants themselves became eligible for the grant of next increment from the dates prior to the date from which the applicants became so eligible. The reliefs sought in these OAs would, therefore, seem to be well founded.

8. The argument contained in the previous paragraph is buttressed by the order passed by this Tribunal in the aforesaid OA 1820/1993. The fact that the ratio of the aforesaid decision will not apply in the facts and circumstances of the present OAs has not been disputed by the respondents. What they have said is that since the applicants were not petitioners before the Tribunal in that OA, they could not take advantage of the decision rendered by the Tribunal in that case. Technically speaking, this might be the correct position, but having regard to the similarity of facts and circumstances, one cannot get away simply by advancing the aforesaid plea. A perusal of the order passed by this Tribunal in OA No.1820/1993 shows that in that case also which dealt with the scheme of career advancement on par with the FCS, there was no concept of inter-se seniority. Further the applicant in that OA and his juniors were both placed at Rs. 3,700/- per month in the pay grade of Rs.3700-5700/- as on 1.1.1986. The applicant's junior in that case, however, secured one increment on 24.2.1986 thereby raising his pay to Rs.3,825/- per month, whereas the applicant remained at the level of Rs.3,700 until 1.1.1987 when his next increment became due. These are the basic facts considered by this Tribunal in that OA. The Tribunal finally decided that the applicant should have his pay refixed at Rs.3,825/-

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w.e.f.24.2.1986, the date from which his junior's pay was raised to the level of Rs.3,825/-. There is, in the circumstances, a total similarity between the facts and circumstances obtaining in OA No.1820/1993 and the present OAs. The ratio of the aforesaid judgement must, therefore, apply to the applicants in the OAs under consideration.

9. For all the reasons mentioned in the preceding paragraphs, the OAs are allowed and the reliefs claimed are granted.

10. The OAs are disposed of in the aforesaid terms. There shall be no order as to costs.


(S.A.T. RIZVI)
Member (A)

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