

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.17/88

DATE OF DECISION: 8th May, 92.

SH. GANESH DUTT SHARMA

....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

FOR THE APPLICANT : SH. B.K. AGGARWAL, COUNSEL

FOR THE RESPONDENTS : SH. P.H. RAMCHANDANI,
SR. COUNSEL

1. Whether Reporters of Local Papers may be allowed to see the Judgement or not?
2. To be referred to the Reporters or not?

JUDGEMENT

(delivered by Hon'ble Mr. T.S. Oberoi, Member(J)).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was promoted as Section Officer from the post of Stenographer Grade 'B', on the basis of the limited departmental examination, has prayed for fixation of his pay under FR 22-C, as the post of Section Officer entails higher responsibilities. He has sought for the following reliefs:-

- (a) that the basic pay of Rs.2300/- which applicant was drawing in the post of Grade 'B' Stenographer be protected;
- (b) that his pay on promotion to the post of Section Officer with effect from 10.11.1986 be refixed under FR 22-C;

(c) that the Memo No.13-15/83-Estt.(Pay-I) dated 29.11.1986 (Annexure-9) and Order No.PF-2448/Admn. dated 28.7.1987 (Annexure A-6) and Annexure A-8 be quashed;

(d) that directions be issued to pay arrears on the basis of refixation of pay under FR 22-C with effect from 10.11.1986.

2. After filing of the O.A., the relief prayed at Item (a) above had since been granted by the respondents, vide their Order dated 8.6.1988(Annexure-B P.42 to the OA) and hence the same was not pressed by the applicant, any longer, whereas he persisted with the other reliefs claimed as (b) & (d) above.

3. The applicant's case is that he initially joined as Stenographer Grade 'C' and was later promoted as Stenographer Grade 'B' on the basis of the test held by U.P.S.C. for the post of Stenographer Grade 'B' in 1983 and posted as Sr. P.A., in the scale of Rs.650-1040/- (Old scale), and his pay was fixed at Rs.710/- P.M. He again appeared in the S.O.S. limited departmental examination, 1985, also conducted by the U.P.S.C., and joined as such on 10.11.1986. The post of Section Officer being a post carrying higher responsibilities, he claims fixation of his pay under FR 22-C, as against his pay fixed on the basis of his presumptive pay as Stenographer Grade 'C', on which he carried his billet, being a permanent Stenographer Grade 'C', while he was still officiating as Stenographer Grade 'B'. The respondents fixed his pay at the minimum of the scale of Section Officer @ Rs.2000/- P.M., which, however, was resented by the applicant and representations sent to his

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department as well as to the Department of Personnel. In result, his pay last drawn as Stenographer Grade 'B' at Rs.2300/- P.M. with his next increment on 1.11.1987, was allowed. He, however, persists in the fixation of his pay under FR 22-C, in the post of Section Officer and he is not satisfied with the protection of his pay to the post of Stenographer Grade 'B', as allowed by the respondents. By referring to the chart of duties performed by Stenographer Grade 'B' as well as by the Section Officer, as per Annexure A-10 and A-11 to the OA, he asserts that the post of Section Officer is carrying higher responsibilities, and as such his pay should be fixed under FR 22-C, as earlier mentioned.

4. The respondents, vide the counter filed by them have opposed applicant's contention. Their case is that 'the post of Section Officer and that of the Stenographer Grade 'B' belonging to different lines and as such, the duties and responsibilities attached to the posts vary from each other, and hence, there can be no comparision between the two. Their plea further is that the scale of Stenographer Grade 'B' and that of Grade 'A' having been equalised and made identical to that of Section Officer, with effect from 1.1.1986, the applicant's pay last drawn as Stenographer Grade 'B' having been protected under proviso 4 to FR 22-C, the applicant is no more entitled to any further benefit.

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as claimed by him.

5. In the rejoinder filed by the applicant, he has stressed his earlier contentions, put forth in the OA, besides urging that, till 1984 examination, the incumbents appearing therein, were granted fixation of pay under FR 22-C and, therefore, denial of fixation of pay from the examination held in 1985, in which the applicant had also appeared and by virtue of having passed the same, was promoted as Section Officer, was discriminatory and hence, respondents' Memo No.13-15/83-Estt(P-I) dated 15.5.1986 (Annexure A-9) and Order No. PF-2448/Admn. dated 28.7.1987 (Annexure A-6) and Annexure A-8 deserve to be quashed, as claimed by way of relief at Item (c), above.

6. I have also heard the learned counsel for the parties and have carefully perused the material on record. I have also carefully gone through the relevant provisions as contained in FR 22-C etc., as urged by the learned counsel for the applicant, under which the fixation of pay is claimed in respect of the applicant.

7. As has been mentioned in earlier part of this judgement, relief at Item (a) above is not pressed for, the same having already been allowed to him. As regards the remaining reliefs, the applicant's pay, last drawn by him as Stenographer Grade 'B', having been protected, and in view of the provisions

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contained in the 4th proviso to FR 22-C, which reads:

"Provided that if a Government servant either-

1) has previously held substantively, or officiated in;

i) the same post, or

ii) a permanent or temporary post on the same time scale, or

iii) a permanent post other than a tenure post, or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time-scale; or

(2) is appointed substantively to a tenure post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated;

then proviso to FR 22 shall apply in the matter of the initial fixation of pay and counting

of previous service for increment," I am of the

view that the pay scales of Stenographer Grade 'B'

and that of the Section Officer having been made

identical, the fixation of pay, as done by the res-

pondents in the applicant's case, calls for no

interference.

8. As regards alleged discrimination in the fixation of pay of those who appeared in 1984 and 1985 examinations, suffice it to say that with the scales of Stenographers Grade 'B' & Grade 'A' having been merged with effect from 1.1.1986 and made identical with that of the Section Officers, and in view of the provision contained in the 4th Provision to FR 22-C, in case of the posts having identical scales of pay, extracted above, covering applicant's case in this respect, there is no justification for fixation

of pay, as prayed for by the applicant, especially after protection of his pay, last drawn by him, as Stenographer Grade 'B'. Applicant's case for reliefs as items (b) to (d) of para 9 of the OA is accordingly declined.

9. In result, the O.A. is dismissed with no order as to costs.

8.5.92
(T.S. OBEROI)
MEMBER(J)