

(6)

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A. No. 2022 of 1988

25th day of March, 1994

Shri N.V. Krishnan, Vice-Chairman(A)

Shri B.S. Hegde, Member (J)

Shri H.S. Bhatia,  
C/o Shri M.L. Chawla,  
Advocate,  
C-4/E, 127, Janakpuri,  
New Delhi-110058.

Applicant

By Advocate Shri M.L. Chawla.

Versus

Union of India through

1. The Director General of Works,  
C.P.W.D., Nirman Bhavan,  
New Delhi.

2. Project Manager,  
Din Dayal Upadhyaya Hospital,  
Project, M.S.O. Bldg.,  
I.P. Estate,  
New Delhi-110002.

Respondents

By Advocate Shri K.C. Mittal.

Orders (Oral)

Shri N.V. Krishnan, Vice-Chairman(A)

The only question in this O.A. is whether the applicant is entitled to the benefit of FR-49(3) as applicable to the C.P.W.D. Employees in terms of Rule 25 of the C.P.W.D. Manual. The applicant was working as a Head Clerk. The Superintending Engineer (Project Manager), Din Dayal Upadhyaya Hospital,

Construction Project, by the order dated 30.4.1986 (Annex.B) ordered the applicant to discharge the duties of Supdt. in addition to his own duties consequent upon the retirement of the incumbent from 30.4.86. It is stated that as a result of this order, the applicant discharged the duties of both the posts till 27.7.1986. Subsequently, by another order dated 1.9.1986 (Annex.C), the same authority directed the applicant to discharge the functions of Office Supdt. in addition to his own duties as Head Clerk, as the incumbent on the post had retired from 31.7.1986, the applicant's request for grant of benefits or additional remuneration has been rejected by the Annex.A order dated 19.2.1988. Accordingly, this O.A. has been filed for a direction to the respondents to give all benefits of higher pay of Office Supdt. to the applicant for discharging the duties and functions of that post, treating the applicant as promoted from the post of Head Clerk to the post of Office Supdt.

2. The respondents / filed the reply contending that the relief sought is not admissible to the applicant. In para. 6.2 of the reply, they have stated as follows:-

"6.2 . It is not correct that the applicant was holding dual charge of the seat of Head Clerk and Superintendent. He was simply asked to look after the work of Office Superintendent

in addition to his own work and again he was asked vide this office letter No.21(2)/86-DDUHP/3666 dated 1.9.1986 to look after the work of Office Superintendent in addition to his own work."

3. It has also been contended that as the applicant was not the seniormost person, he cannot be given these benefits.

4. The matter came up for hearing today. The learned counsel for the applicant submitted that the provisions of FR 49(3) are squarely applicable to the facts of this case, especially because there are specific orders of the competent authority directing him to look after the duties of the additional post, i.e., that of the Superintendent. He has also placed for our perusal a judgement of the Principal Bench of the Tribunal in TA-1128/85 in which a similar claim has been allowed. The learned counsel for the respondents contended that as there is no formal order of appointment to hold charge of the other post, this claim is without any basis.

5. We have perused the records. The Annex.B and Annex.C orders which are in Hindi, have been rendered into English for our benefit by the learned counsel. We notice that the Annex.B order specifically orders the applicant to look after the duties of the post of the Superintendent in addition to his own duties. The Annex.C order likewise, is in similar terms. In the circumstance, we are of the view that

(C1)

- 4 -

the conditions of clause (iii) of FR-49 are satisfied in this case and, therefore, the applicant is entitled to the benefits accruing from the application of that provision to his case.

6. In the circumstances, we allow this application and direct the respondents to dispose of the applicant's claim for the periods he discharged the duties of the additional post of Superintendent in pursuance of the Annex.B and Annex.C orders, within a period of three months from the date of issue of this order, taking into account the averments made in the application by the applicant as to the period for which he had held double charge of these posts. The O.A. is disposed of accordingly.

7. The applicant states that in pursuance of the Annex.C order, he continued to hold charge of both the posts till the date of his superannuation, i.e., 30.9.1987. If this be so, he would be entitled to the consequential benefits <sup>if any</sup> from 1.10.1987. The respondents are directed to examine this matter also and pass appropriate orders.

*Hegde*  
(B.S. Hegde)  
Member (J)

*Krishnan*  
25.3.94  
(N.V. Krishnan)  
Vice-Chairman (A)

SLP