

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 816/88
T.A. No.

1988.

DATE OF DECISION 18.5.89

Shri H.V. Dasan

Petitioner

Shri M.R. Bhardwaj,

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri P.P. Khurana,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P. Srinivasan, Administrative Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *}*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *}*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Regn. No. OA-816/88

Date of Decision 18.5.88

Shri H.V.Dasan

..... Applicant.

Versus

Union of India

..... Respondents.

For the applicant

..... Shri M.R.Bhardwaj,
Advocate.

For the respondents

..... Shri P.P.Khurana,
Advocate.

CORAM: Hon'ble Shri P. Srinivasan, Administrative Member.

JUDGEMENT

The facts of this application lie within a narrow compass. The applicant was promoted from senior scale, Group 'A' of the P&T Accounts and Finance Service to the Junior Administrative Grade (JAG) of the services with effect from 28.5.1981, in the then scale of Rs.1500-2000/- It was a temporary and adhoc promotion. His initial pay in the JAG was fixed in accordance with the rules in force at the time, at the stage of pay in JAG immediately above the pay he was drawing in the senior scale immediately before his promotion. However, by an O.M. dated 5.10.1981, the Department of Personnel directed that the initial pay of officers promoted to JAG would be fixed in accordance with FR 22C i.e. the pay being drawn by them in senior scale would be stepped up notionally by one increment and their pay in JAG would be fixed at the stage immediately above that figure. This benefit would be available only to those who were promoted to JAG after 5.10.1981. Accordingly, three persons S/Shri P.Francis, Swaminathan and P.H.Krishnamoorti who were junior to the applicant in the senior scale and were promoted to JAG after 5.10.1981, got their initial pay in JAG fixed in accordance with FR-22C. The pay

P.S.K

thus fixed in their cases was higher than the pay the applicant was drawing in JAG at the time. Subsequently, by another O.M. dated 25.9.1982, the Department of Personnel directed that the pay of a senior officer promoted to JAG prior to 5.10.1981 would be stepped up to equality with that of his junior promoted to that post ^{and after} on 5.10.1981, with effect from the date of promotion of the junior. There were three conditions laid down before such stepping up could be allowed. The applicant fulfils two of those conditions. The third condition was that the senior and the junior officers should have been promoted to the higher post on regular basis which unfortunately, the applicant did not fulfil, he having been promoted only on adhoc basis to JAG in 1981 and that promotion not having been made regular till the date of his retirement i.e. 31.5.1986. The result was that the applicant continued to draw less pay in JAG than his juniors upto 31.12.1985 and on 1.1.1986 when new scales recommended by the 4th Pay Commission were introduced, he was again fixed at a lower stage in the revised scale of JAG than his juniors. His prayer in the application is that at least on and from 1.1.1986 his pay in JAG be stepped up to equality with that of his juniors and that he be given all retirement benefits accordingly.

2. Shri M.R. Bhardwaj, learned counsel appeared for the applicant and Shri P.P. Khurana, Counsel for the respondents. Both have been heard.

3. As already indicated, the only reason why the applicant was denied stepping up of his pay to equality with that of his juniors is that he was not regularly promoted to JAG till his retirement. It is common ground that the applicant was promoted to JAG albeit on an adhoc and temporary basis as early as in May, 1981 and continued to work in that



grade over five years till he retired on 31.5.1986. It is also common ground that when he was promoted in May, 1981 his promotion was given after consultation with the U.P.S.C. on the basis of his seniority in the senior scale of Group 'A' as well as his record of service. The DPC for considering regular promotion to JAG was, however, not held till July, 1986. The respondents say that the DPC actually met for this purpose in July, 1986 wherein normally the case of the applicant for regular promotion would have come up for consideration, but since he had retired by then he could not be given regular promotion. It is also admitted that his juniors who were still in service in July, 1986 were considered by the DPC and given regular promotion. It is clear from the statement of the respondents that if the applicant had continued in service in July, 1986 he would have been given regular promotion to JAG and would have got the benefit of stepping up of his pay to that of his juniors from the date of such regular promotion. This is also clear from the fact that the applicant continued to work in JAG from May, 1981 till the date of his retirement on 31.5.1986 and held important posts in that grade in the department. His promotion to JAG was not made on a regular basis only because the DPC for the purpose met only after his retirement. Adhoc promotion is treated as promotion for the purpose of pay and allowances. It does not confer any right in the matter of seniority and for indefinite continuance in the higher post. An adhoc promotee draws the same pay as a regular promotee because he performs the same duties. To make a distinction in regard to an adhoc promotee in the matter of pay vis-a-vis regular promotee, therefore, does not seem to stand to reason. In any case, if it is made to depend on whether a DPC for regular promotion is held prior to his retirement, this is even more unfair : if for some reason or the other, the DPC for promotion is held late and he retires from service in the meantime, he loses the benefit of having been senior

in the service. The fault of the applicant, if any, in this case is, if I may say so, that he was senior to Shri Francis and others and given promotion to JAG before them. The least that the respondents could have done in this case was to consider the case of the applicant for regular promotion in the DPC which was held in July, 1986; if he could not be appointed to that grade on regular basis because he had already retired by then, ^{If he could be given} give him the benefit of stepping up in the pay notionally for the purpose of computing his retirement benefits. As I have stated earlier, it is clear from the averments of the respondents that the applicant was fit in every way for regular promotion to JAG and would have been approved for such promotion by the DPC which met in July, 1986 if he had been in service at that time. In these circumstances, it was certainly not fair to deny him the benefit of stepping up of the pay for the purpose of computing his retirement benefits.

4. Therefore, in the peculiar facts and circumstances of the case, I am of the view that it would meet the ends of justice to pass the following order:

The applicant's pay as on the date of his retirement should be fixed as if he had been regularly promoted to the post of JAG by that date, stepping up his pay notionally to the figure that his juniors Shri Francis and others were drawing at that time; the respondents will then compute his pension and other retirement benefits in accordance with such pay. The revised pension and other retirement benefits should be recalculated on this basis and paid to the applicant. All arrears on this account should be settled within three months from the date of receipt of this order.

5. The application is disposed of on the above terms leaving the parties to bear their own costs.


(P. Srinivasan)

Member (Admn.)