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Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. DA-1627/87

Date: 28-4-89

Shri Govind Prasad Gupta Applicant

Versus

Union of India & Ors. Respondents

For the Applicant Shri Sant Lal, Advocate

For the Respondents Shri P.P. Khurana, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri S.P. Mukerji, Vice-Chairman (Admn.).

1. Whether Reporters of local papers may be allowed
to see the Judgement? Yes

2. To be referred to the Reporter or not? No

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who is working as Assistant Supdt.,
Telegraph Traffic in the Department of Telegraphs, filed
this application under Section 19 of the Administrative
Tribunals Act, 1985 praying for the following reliefs:-

(i) To aside the impugned orders dated 15.1.1987
and 18.9.1987 at Annexures A-1 and A-2, where-
by the respondents rejected his representation
for stepping up of his pay;

(ii) to direct the respondents to step up his pay
to the level of his next junior; and

(iii) to grant consequential relief of payment of
arrears arising from the stepping up of pay.

2. There is no dispute regarding the facts of the case.
The applicant joined the Posts & Telegraphs Department in
January, 1966 as a Telegraphist. He was promoted to the
post of Assistant Supdt., Telegraph Traffic after passing
the departmental examination in September, 1982. The P & T

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Department introduced a scheme known as 'Time Bound One Promotion Scheme' w.e.f. 30.11.1983, according to which, officials are to be placed in the next higher scale of pay on completion of 16 years of service in the present lower grade. Pursuant to the said scheme, some officials junior to the applicant were placed in the next higher scale of pay before being promoted to the post of Asstt. Supdt. Telegraph Traffic. Their pay in the grade of Assistant Supdt. Telegraph Traffic was fixed under F.R.22-C with reference to their pay in the higher scale under the Time Bound One Promotion Scheme. This has resulted in an anomaly so far as the fixation of pay of the applicant and others similarly placed who had been promoted to the post of Asstt. Supdt. Telegraph Traffic before 30.11.1983. On account of this anomaly, seniors are drawing less pay than their juniors.

3. The scale of pay of the post of Telegraphist is Rs.110-240. This was revised to Rs.260-480 with effect from 1.1.1973. The scale of pay of the post of Telegraph Master (0) (HG TL) under the Time Bound One Promotion Scheme is Rs.425-640. The pay-scale of the post of Asstt. Supdt. Telegraph Traffic is Rs.425-750. This was revised to Rs.1400-2600 w.e.f. 1.1.1986. The applicant has given the following particulars of the officers junior to him who had been promoted as Asstt. Supdt. Telegraph Traffic and of the manner in which their pay has been fixed by the respondents.

4. The applicant was promoted as Asstt. Supdt. Telegraph Traffic on 27.9.1982. His pay was fixed at Rs.470 under F.R. 22 (a) (i). Subsequently, on his option, his pay was fixed at Rs.485 w.e.f. 13.1.1983 with date of next increment as 1st January each year under F.R.22-C. His pay in the

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revised scale w.e.f. 1.1.1986 was fixed at Rs.1560/-; on 1.1.1987, it was Rs.1600; and on 1.1.1988, it was Rs.1650. S/Shri Gian Chand, Chamela Ram and B.N. Thakur were promoted as Asstt. Supdt. Telegraph Traffic in subsequent years and were junior to the applicant. They were promoted from the scale of Rs.260-480 (Telegraphist) to Rs.425-640 (Telegraph Master (0) under the Time Bound One Promotion Scheme) before promotion to the scale of Rs.425-750 (Asstt. Supdt. Telegraph Traffic). Their pay was fixed in the post of Telegraph Master (0) and thereafter in the revised scale w.e.f. 1.1.1986.

5. Shri Gian Chand's pay was fixed under the One Time Bound Promotion Scheme on 30.11.1983 as Rs.470 under F.R.22(a) (i) as per his option. On 3.1.1984, his pay was fixed at Rs.500 under F.R.22-C. On 17.6.1985, he was promoted as Asstt. Supdt. Telegraph Traffic and his pay was fixed at Rs.545. On 1.1.1986, his pay was fixed in the revised scale at Rs.1600; on 1.6.1986, it was Rs.1650; and on 14.6.1987, it was Rs.1700. In contrast, the pay of the applicant on 1.1.1986, 1.1.1987 and 1.1.1988 was short by Rs.50/-.

6. Shri Chamela Ram's pay was fixed under the Time Bound One Promotion Scheme on 30.11.1983 as Rs.500 under F.R.22-C. On 1.1.1986, his pay was fixed in the revised scale at Rs.1560. On 20.9.1986, he was promoted as Assistant Supdt. Telegraph Traffic and his pay was fixed at Rs.1650 under F.R.22-C; on 20.9.1987, it was Rs.1700. In contrast, the pay of the applicant on 20.9.1986 and 20.9.1987 was short by Rs.50.

7. Shri Thakur's pay was fixed under the Time Bound One Promotion Scheme as Rs.470. On 1.1.1986, his pay was fixed in the revised scale at Rs.1520. On 27.3.1987, he was promoted as Assistant Dupdt. Telegraph Traffic and his pay was fixed at Rs.1650. In contrast, the pay of the

applicant on 27.3.1987 was short by Rs.50.

8. The Time Bound One Promotion Scheme [redacted] was introduced after the promotion of the applicant as Asstt. Supdt. Telegraph Traffic. He was already placed in the higher non-gazetted grade prior to the commencement of the scheme.

9. Both parties have relied upon Government of India's decision No.10 below F.R.22-C dated 15th February, 1983 which reads as follows:-

".....Cases have come to notice where a senior Government servant promoted to a higher post before the introduction of non-functional selection grade draws less pay than his junior who is promoted to a higher post later, after having been appointed in the selection grade.

2. In order to remove the above anomalies, it has been decided that in such cases the pay of senior employee in the higher grade may be stepped up to make it equal to the pay of the junior person, subject to the fulfilment of the following conditions:-

- (i) The scale of pay of the lower post (ordinary grade) and higher post in which both junior and senior are entitled to draw pay should be identical.
- (ii) The senior employee should have been eligible for appointment to selection grade but for his working in the higher post on or before the date on which the junior was appointed to the selection grade.
- (iii) The junior person should not have drawn more pay than the senior by virtue of fixation of pay under the normal rules or any advance increment granted to him in the lower post, and the anomaly should be directly as a result of the junior person holding selection grade in the higher scale at the time of his promotion to the higher grade.

3. The orders re-fixing the pay of senior employee in accordance with the provisions of this O.M. should be issued under F.R.27 and the next increment of the senior employee be drawn on completion of the required qualifying service with effect from the date of re-fixation of pay.

4. The stepping up should be done with effect from the date of promotion of the junior employee to the higher grade but the actual benefits would be available from the date of issue of these orders or date of anomaly, whichever is earlier."

10. We have carefully gone through the records and have heard the learned counsel for both the parties. We have also considered the written submissions filed by the applicant after the conclusion of the arguments.

11. The admitted factual position is that some officials who are junior to the applicant, ~~are drawing higher pay than the applicant. The anomaly in pay fixation has arisen due to the promotion of the applicant to the post of Asstt. Supdt. Telegraph Traffic before the introduction of the non-functional selection grade (lower selection grade) w.e.f. 30.11.1983 and the promotion of his juniors to the said post later, after having been appointed to the selection grade.~~

12. The applicant, having completed 16 years' service as a Telegraphist, was eligible for appointment to the selection grade w.e.f. 30.11.1983 but for his working on the higher post of Asstt. Supdt. Telegraph Traffic on the date on which his juniors were appointed to the selection grade.

13. In our opinion, the case of the applicant is fully covered by the provisions of Office Memorandum dated 15.2.1983 mentioned above. One of the requirements for stepping up of pay under the aforesaid Office Memorandum is that the scale of pay of the lower post (ordinary grade) and higher post in which both junior and senior are entitled to draw pay should be identical. This condition is fulfilled in his case. The second condition is that the

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senior employee should have been eligible for appointment to the selection grade but for working in the higher post on or before the date on which the junior was appointed to the selection grade. This condition is also fulfilled in his case. The third condition is that the junior person should not have drawn more pay than the senior by virtue of fixation of pay under the normal rules or any advance increment granted to him in the lower post and the anomaly should be directly as a result of the junior person holding selection grade in the higher scale at the time of his promotion in the higher grade. This condition is also fulfilled in the case of the applicant.

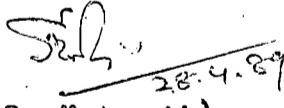
14. The respondents have admitted in para. 6.3 of their counter-affidavit that the applicant was promoted to the higher post of Asstt. Supdt. Telegraph Traffic in the scale of Rs.425-750 from the scale of Rs.260-480 (ordinary grade of lower post) whereas his juniors names S/Shri Gian Chand, Chameela Ram and B.M. Thakur, were promoted from the scale of Rs.260-480 (ordinary grade) to the scale of Rs.425-640 (selection grade) w.e.f. 30.11.1983 and then to the higher post of Asstt. Supdt. Telegraph Traffic (in the scale of Rs.425-750). The anomaly is directly as a result of the junior officials holding selection grade at the time of their promotion to the higher grade (Assistant Supdt. Telegraph Traffic).

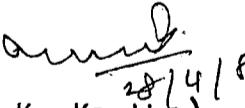
15. The respondents have not denied the fact that the three officials junior to the applicant were drawing less pay in the lower post than the applicant.

16. In the facts and circumstances of the case, we are inclined to agree with the contention of the applicant that the junior persons getting more pay than their senior

and the denial of the right of the senior person for stepping up of his pay equal to that of his juniors, runs counter to the Office Memorandum issued by the Government on 15.2.1983 and is also violative of the provisions of Articles 14 and 16 of the Constitution. We are of the view that the benefit of the aforesaid O.M. dated 15.2.1983 cannot be denied to the applicant merely because the non-functional selection grade under the Time Bound One Promotion Scheme was introduced w.e.f. 30.11.1983 which was after the issue of the said O.M. The object of the said O.M. is to remove anomalies of the kind which have arisen in the present case. Its application cannot be restricted to the selection grade introduced at any particular point of time or in any particular department or ministry.

17. In the result, we allow the present application and quash the impugned orders dated 15.1.1987 and 18.9.1987 and direct the respondents to step up the pay of the applicant to the level of his next junior. The applicant would also be entitled to the consequential relief by way of payment of arrears arising from stepping up of pay. The respondents shall comply with the above directions within one month of the receipt of a copy of this order. There will be no order as to costs.


28.4.89
(S.P. Mukerji)
Vice-Chairman(Admn.)


28/4/89
(P.K. Kartha)
Vice-Chairman(Judl.)