

27 (10)

In the Central Administrative Tribunal  
Principal Bench: New Delhi

OA No. 855/87

Date of decision: 22.10.1992.

Rai Singh and others

Versus

...Petitioners

Union of India through the Secretary,  
Ministry of Defence, Government  
of India, New Delhi

...Respondent

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman  
The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the petitioners

Shri R.R. Rai, proxy counsel  
for Shri Umesh Mishra,  
counsel.

For the respondent

Shri N.S. Mehta, Senior  
Standing Counsel.

Judgement(Oral)  
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

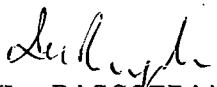
\* The petitioners are aggrieved by the action taken by the respondents in abruptly reducing their pay without even issuing a show cause notice, figures in respect of which have been furnished in Annexure-A. The petitioners got the benefits of revised scale of pay on the strength of the order as per Annexure R-I dated 15.10.1984. Paragraph-(ii) of the said order provides for three categories viz. Highly Skilled Grade-I (Rs.380-560), Highly Skilled Grade-II (Rs.330-480) and Skilled Grade (Rs.260-400). The revision of pay scale had to be effected on the basis of the aforesaid classification w.e.f. 15.10.1984. The benefit of the same was given to the petitioners and higher scale of pay, as indicated in Annexure-A, was made available to them. Subsequent-

ly, the order (Annexure R-I) stood modified by order at Annexure R-II dated 19.4.1985 by which the according of promotion from one skilled grade to another skilled grade was made dependent upon the candidate concerned passing the prescribed test. No such test was prescribed by the order dated 15.10.1984. The petitioners were given the benefit of the higher scales, therefore, without any insistence on their passing any trade test for the purpose. For the first time, by order (Annexure R-II) dated 19.4.1985 tests were prescribed for promotion from one skilled grade to another. In fact, Annexure R-II does not in terms say that it has any retrospective effect, so as to affect the persons who have already been accorded the benefit of higher scales of pay as per Annexure R-I. This position was, however, clarified by Annexure R-IV dated 1.7.1986 vide paragraphs 11 and 12 and retrospective effect was given for the prescription of the test for earning eligibility for the higher skilled grades on the ground that the petitioners were accorded the higher pay scales without their passing the prescribed test and scales of pay of the petitioners were reduced. This is also indicated by the statement given as per Annexure-A. It is in this background that the petitioners have ✓ approached the Tribunal for relief.

2. It is necessary to point out that the reduction of pay scales has been made without complying with the principles of natural justice. This ground itself is sufficient to annul the action of the respondents in reducing the pay scales of the petitioners. Even on merits all that has been done is wholly unjustified. Higher scales were accorded as per Annexure R-1 dated 15.10.1984 without insisting on the passing of any test. The said order had not prescribed any test and, therefore, according of higher scales of pay to the petitioners on the strength of the said order, without insisting on the passing of any test was legal and right. Though the respondents had the power to prescribe test for according promotion to the higher grades this could not have been done by an executive order so as to affect rights of those who had already secured the benefit of higher scales of pay before the orders Annexures R-II and R-IV came to be issued. We have, therefore, no hesitation in holding that the depriving of the benefits of the higher scale of pay to the petitioners which they had secured before the orders at Annexures R-II and R-IV came to be passed is not in accordance with law. We

would, however, hasten to add that so far as the petitioners are concerned, they can earn further promotion only by passing the test prescribed by Annexure R-II. So far as the higher scale of pay which they secured on the strength of Annexure R-I before the order at Annexure R-II came to be passed cannot be denied to them.

3. For the reasons stated above, this petition is allowed and the directions in Annexure R-IV contained in paragraphs 11 and 12 are quashed in so far as they take away the rights of persons who had secured the benefit of higher scales of pay on the strength of Annexure R-I before the orders at Annexures R-II and R-IV came to be passed. The respondents are restrained from reducing the pay scales of the petitioners which they secured on the strength of Annexure R-I by applying the orders at Annexure R-II and R-IV. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(V.S. MALIMATH)  
CHAIRMAN