

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

Regn. No. OA 95/87

31.8.87

Shri RL Arya

applicant

vs.

Central Road Research Institute

Respondent

Applicant in person.

Shri AK Sikri

Advocate for respondent.

CORAM:

Hon'ble Shri B.C.Mathur

Vice Chairman

This is a case under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri RL Arya, Technician Grade VII, Central Road Research Institute, New Delhi against impugned order no. 15 CRRI(125)/68/Estt. dated 14.5.86 passed by the Administrative Officer, Central Road Research Institute, New Delhi. The case of the applicant is that on promotion from the lower scale of Rs. 380-560 to a higher scale of Rs. 425-700, his pay has been fixed at a lower stage to the pay of his junior Shri TR Shantiwal working in the same rank before and after promotion whereas the applicant was drawing higher rate of pay than his junior in the lower scale. The applicant was promoted to Technician Grade VIII in the scale of Rs. 425-700 on 11.3.86 with effect from 1.2.81. The basic pay of the applicant after promotion was fixed at Rs. 545 with effect from 1.2.81 and his basic pay became Rs. 560 after one year, that is, on 1.2.82. The applicant has stated that Shri Shantiwal, who has not been made a respondent in this case, joined the Central Road Research Institute in the same rank on 6.8.64 and was junior to the applicant. Shri Shantiwal was promoted to the post of Technician Grade VIII in the scale of Rs. 425-700 with effect from 1.2.82 one year after the promotion of the applicant and the basic pay of Shri Shantiwal

was fixed at Rs. 600.00 with effect from 1.2.82 at a higher stage to that of the applicant whose basic salary on 1.2.82 was only Rs. 560.

2. It is the case of the applicant that according to F.R. 22-C which provides for removal of anomaly, a Government servant promoted or appointed to a higher post on or after 1961 drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in the junior post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the condition that both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical and in the same cadre. According to the applicant, advance increments cannot be given under F.R. 22-C but only under F.R. 27. F.R. 27 should be applicable having regard to the candidate's age, previous experience, qualifications and emoluments last drawn etc and that the reasons for grant of initial higher pay should be recorded on the file at the time of sanction. The case of the applicant is that his junior, Shri Shantiwal, was given 3 increments on the basis of the recommendations of the Core Committee held on 12.3.82 but the committee did not record the reasons for recommending advance increments. His case is that the length of service of Shri Shantiwal would have been taken into consideration while allowing these advance increments. The applicant has also pointed out that under Fundamental Rules, advance increments cannot be granted as reward for meritorious work.

3. The learned advocate for the respondents, has brought out that according to the procedure adopted by the ^{Council} _{Centre for} R

Scientific and Industrial Research for promotions etc., in scientific departments as recommended by what is called the Varadarajan/Valluri Committee, officers in scientific departments are considered for promotion to the next higher grade after some years of service depending upon the grade where they are working automatically even though there may not be any vacancies in the next grade. In the present case, officers working for 7 years would be eligible for promotion to the next higher grade but for such a promotion, an assessment has to be done by an Assessment Promotion Committee which constitutes a Core Committee in accordance with the Core/Varadarajan/Valluri Committee recommendations. A core committee met on 12.3.82 and recommended that Shri T. Shantiwal should be given three advance increments and that the date of his promotion ^{which} was approved from 1.2.82. It has been mentioned that in the minutes of the Core Committee recommendations they have taken into consideration the performance of various candidates in trade test, interview and confidential reports of the eligible candidates. On 12.3.82, the Core Committee recommended 8 candidates for promotion. 2 candidates were promoted with effect from 1.2.81 and the rest with effect from 1.2.82. In the case of the first 2 candidates, the committee recommended 2 advance increments, in the case of the next 2, one advance increment, in the case of Shri TK Shantiwal, 3 advance increments and in the case of the next 2 no increment whereas one increment was recommended in the case of the eighth candidate.

4. It is quite clear from the proceedings of the Core Committee meeting held on 12.3.82 that the criteria was performance in trade test, interview and confidential reports and nothing else. This is a special scheme for scientific department, which allows advance increments on merit because the criteria laid down or considered by the Core Committee only indicates that merit as seen by various methods was the sole consideration.

5. It is not the case of the applicant that Shri Shantiwal should not have been allowed 3 advance increments even though the Fundamental Rules do not permit it. His case is that he being senior to Shri Shantiwal, the anomalies as pointed out under F.R. 27 should be removed and his own pay should be stepped up to be equal to that of his junior Shri TK Shantiwal. The case of the applicant was also considered by the Core Committee on 10.3.86 and he was given promotion with effect from 1.2.81 but in his case, the Core Committee did not recommend any advance increments. The pay of both the applicant as well as Shri Shantiwal were fixed under F.R. 22-C which means that on promotion to the higher grade, their pay was fixed by giving 2 increments in the lower grade but in the case of Shri Shantiwal after fixing the pay under F.R. 22-C, he was also allowed 3 increments as recommended by the Core Committee which stepped up his salary to Rs. 600 per month. The question now is whether under F.R. 27, the applicant ^{who} is senior to Shri Shantiwal, is entitled to get his salary ^{stepped} ~~fixed~~ up so that it becomes equal to that of Shri Shantiwal. F.R. 27 allows advance increments to persons having regard to their age, previous experience, qualifications and emoluments last drawn etc. In the case of scientific departments however, advance increments are given on the basis of the implementation of the Core/Varadarajan/Valluri Committee as approved by the Governing Body of the ^{Govt} ~~Govt~~ ^{Centre} for Scientific and Industrial Research for recruitment and assessment of scientific and technical staff. The applicant says that while the Governing Body may be supreme in the matter of appointments, selections, pay etc. of their staff, it cannot disregard Government instructions or the Fundamental Rules which have been adopted by it. If this is accepted then the very basis for having advance increments on merit would become invalid. If the procedure adopted by ^{Govt} ~~Govt~~ ^{Centre} for Scientific and Industrial Research is contrary to instructions of Government of India or Fundamental Rules 27, then, we have to examine whether the procedure recommended by the Varadarajan/Valluri

Committee is legal or ultra vires. The vires of these rules has, however, not been challenged by the applicant who does not want the pay of Shri Shantiwal to be reduced but only his own pay stepped up under F.R. 27. It is quite evident that a special scheme has been approved by Government of India for scientific departments. Evidently, the recommendations of the Varadarajan/Valluri Committee have not only been approved by the ^{Central} Centre for Scientific and Industrial Research and accepted by Government of India and the Ministry of Finance would certainly be a party to the same. If the intention of these rules is to provide chances of accelerated promotion to scientists and technical persons working in scientific departments, evidently these will have to be out of turn and the scheme itself would mean that meritorious people will get promotion out of turn over their seniors. In the circumstances, I see no merit in the present application which is hereby dismissed. There will be no order as to costs.

B.C. Mathur
(B.C. Mathur) 31.8.87
Vice Chairman