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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.130/90

DATE OF DECISION: 3.2.1992.

SHRI M.L. PATEL

...APPLICANT

VERSUS

U.O.J. & ORS.

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI S.S. TEWARI, COUNSEL

FOR THE RESPONDENTS

SHRI M.L. VERMA, COUNSEL

JUDGEMENT(ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Heard the learned counsel for both the parties.

The short issue in question is the anomaly in the pay of the applicant fixed as on 1.1.1986 at a stage lower than his juniors viz. Shri Yakub Lakra and Shri Ramji Lal.

The learned counsel for the respondents submitted that there are two streams for promotion to the post of Head Clerk: UDCs in the grade of Rs.330-560 can be promoted directly as Head Clerks in the grade of Rs.425-700 or UDCs can seek promotion to the grade of D.S.K. in the pay scale of Rs.425-600 from thereon to the next grade of Head Clerk in the pay scale of Rs.425-700. Those who pass through intermediary grade of D.S.K. first get the benefit of FR-22-C in the fixation of pay as D.S.K. and again on promotion to the post of Head Clerk get the benefit of FR 22-C only once viz. on promotion from UDC(Rs.380-560) to Head Clerk (Rs.425-700). The applicant herein could not be promoted as D.S.K. due to non-availability of the post and

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(b)

was, therefore, offered the post of Head Clerk having higher scale of pay than that of D.S.K. He was thus promoted directly from the post of UDC to Head Clerk. The anomaly is created only on this single account. The learned counsel further stated that the stepping up of the pay is allowed under the extant rules; if the employees are working in identical scale of pay in the same line of promotion and belong to the same cadre. In these circumstances the prayer of the applicant could not be accepted.

The learned counsel for the applicant, however, referred to the respondents' order dated 22.12.1987 wherein Shri Ram Parkash and Shri Chanan Ram who were placed in identical circumstances, as the applicant, have been allowed the stepping up of the pay in terms of FR-27 in relaxation of the provisions contained in the general orders on the subject. According to the respondents this has been done in accordance with the judgement of the Tribunal reported in **ATR 1987 (2) CAT 502 S.Ramalingam & Ors. v. UOI & Ors.** In the said judgement the view taken by the Tribunal is that since the ultimate post carries higher responsibilities there is no reason why a junior Govt. servant who comes through intermediate scale of pay to the ultimate grade should be fixed at higher pay than a senior government servant who comes directly to that very grade. Accordingly, the Madras Bench allowed the stepping up of the pay in such cases, quashing the orders of the respondents.

We are in respectful agreement with the view taken by the Madras Bench and accordingly order and direct that the respondents shall step up the pay of the applicant in the pay scale of Rs.425-700 (pre-revised) in relaxation of the rules, as done in the case of some other juniors vide order dated 22.12.1987 to the stage at which the applicant's immediate junior Shri Yakub Lakra was fixed. The pay of the applicant should thereafter be progressed notionally till the date of his retirement on superannuation on 30.9.1987.

(2)

We further direct that the pension of the applicant shall be revised in accordance with the revised pay fixed, as above, and he shall be paid differential in the revised pension and D.C.R.G. and other retirement benefits, if any, most expeditiously but preferably within 8 weeks from the date of communication of this order.

There will be no order as to costs.

Subhash
(I.K. RASGOTRA)
MEMBER(A)

Subhash
(T.S. OBEROI)
MEMBER (J)

February 3, 1992.

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