

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

(3)

O.A. No.  
T.A. No.

1593/90

199

DATE OF DECISION 24-7-91

<u>Shri Subhash Chander</u>	<u>Petitioner Applicant</u>
<u>Applicant in person.</u>	<u>Advocate for the Petitioner(s)</u>
Versus	
<u>U.O.I &amp; ors.</u>	<u>Respondents</u>
<u>Shri M.L.Verma,</u>	<u>Advocate for the Respondent(s)</u>

**CORAM**

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N.DHOUNDIYAL, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *no*
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 ? *yes*

JUDGEMENT

( JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE MR. B.N.  
DHOUNDIYAL, MEMBER(A) )

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 by Shri Subhash Chander against the impugned order No. G 11047/1/89/P&A(Admn) dated 20.10.89 issued by the office of the Chief Controller of Accounts, Ministry of Information and Broadcasting posting the applicant in the pay scale of Rs.1640-2900 against a post carrying the pay scale of Rs.2000-3200.

2. The applicant has referred to restructuring of the cadre of the Junior Accounts Officers into two separate cadres on the basis of the recommendations of the 4th Pay Commission i.e:-

- (a) higher functional post in the pay scale 80%  
of Rs.2000-3200/-
- (b) ordinary functional post in the pay scale 20%  
of Rs.1640-2900/-

(6)

In the Ministry of Information and Broadcasting, 75 posts were created in the higher pay scale and 19 in the lower pay scale. Information regarding as to what are the posts in different scales was not made public. The incumbents of the post previously occupied by the applicant in the Internal Audit of Ministry of Information and Broadcasting as well as <sup>/new posts</sup> in the office of the Chief Engineer (Research & Development) to which he was transferred had been in the scale of Rs.2000-3200/- from time to time. The applicant claims that the duties performed by him are similar to the duties performed by those to whom higher scales of pay are allowed and, therefore, he should be given that very scale of pay.

3. The respondents have stated that the application is barred by res judicata as earlier also the applicant had filed OA No.1940/88 claiming substantial and similar reliefs. This OA was dismissed by another Bench of this Tribunal vide order dated 11.10.1988. A review petition and an S.L.P against this order have also been dismissed. The relevant extracts from the judgement are reproduced below:-

" We are of the view that the claim of the applicant that there cannot be higher grade in one and the same cadre, is clearly misconceived. We will even assume that the applicant is performing the very duties performed by those whom higher scale of pay had been allowed. But, that itself does not attract the vice of Articles 14 and 15 of the Constitution. The true scope and ambit of which has been explained by the Supreme Court in a large number of cases. On the principle enunciated by the Supreme Court, the claim of the applicant is wholly untenable."

4. The applicant is yet to reach that stage of seniority in the cadre of Junior Accounts Officer which will make him eligible

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for grant of higher functional scale. For promotion to the higher scales, the Department Promotion Committee is constituted centrally by the Controller General of Accounts (Ministry of Finance), and the list of officers considered fit for promotion as Assistant Accounts Officer is circulated from time to time to the field offices. In case Assistant Accounts Officer is not available in a unit, those duties are performed by the next higher officer namely, Accounts Officer and not by the Junior Accounts Officer.

5. We have gone through the facts of the case and heard the arguments advanced by the learned counsel for both parties. The issues raised in the present application have been dealt with by another Bench of this Tribunal. The review petition as well as S.L.P were also dismissed. In the facts and circumstances, the principle of res judicata will apply and we, therefore, hold that the present application is not sustainable and dismiss the same, but under the circumstances, there will be no order as to costs.

6. Nothing stated hereinabove would preclude the authorities concerned from considering the case of the applicant for promotion to the post of Assistant Accounts Officer in the scale of Rs.2000-3200 whenever he comes in the eligibility zone according to his seniority in the cadre.

*B.N. Dhouliyal*  
( B.N.DHOULIYAL )  
MEMBER (A) 24/7/91

*Anurag*  
24/7/91  
( P.K.KARTHA )  
VICE CHAIRMAN (J)