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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.2153/1991

New Delhi, This the 23<sup>rd</sup> Day of September 1994

Hon'ble Shri P.T. Thiruvengadam, Member (A)

Hon'ble Shri T.L. Verma, Member (J)

1. Shri Om Prakash  
Son of late Shri Shive Ram Singh  
SCM P. 3374, 510 Army Base Workshop  
Meerut Cantt.
2. Shri Devender Singh  
S/o Shri Boota Ram  
SCM No. P-3376  
510- Army Base Workshop  
Meerut Cantt.

..Applicants

By Shri R L Sethi, Advocate

Versus

1. Union of India, through  
Secretary, Ministry of Defence,  
New Delhi - 110 011.
2. Director General  
EME M.G.O.'s Branch  
Army Head Quarters, DHD PO  
New Delhi - 110 011.

..Respondents

By Shri V S R Krishna, Advocate

O R D E R

Hon'ble Shri P.T. Thiruvengadam, Member (A)

1. The two applicants in this case were functioning as Bench Fitters in the scale of Rs.260-400 and were promoted to the then next available higher grade of Chargemen in the scale of Rs.380-560 with effect from 11.3.84. They were further promoted as Senior Chargemen(SCM) with effect from 1.1.86.
2. Three Grade Structure Scheme for industrial personnel was introduced effective from 15.10.84. By this Scheme the scale of Rs.380-480/- which was <sup>in</sup> not existence earlier was introduced. Some juniors to the applicants who were earlier functioning as Bench Fitters like the applicants ~~they~~ <sup>He</sup> were promoted to the grade of Highly Skilled Feeder Grade II in the scale of Rs.330-480/- with effect from 15.10.84.

They were further promoted to the grade of Chargemen in the scale of Rs.380-560(Rs.1400-2300 in the revised scale). Such juniors got the benefit of FR 22 C twice and are drawing more pay compared to the applicants in the post of Chargemen. Representations made by applicants for stepping up vis a vis their juniors was turned down by a letter dated 2.4.92(Annexure A 1 to the DA) stating as under:-

"Para 2. The contents of the appeal of the individual have ~~thoroughly~~ been examined at appropriate level. It is revealed that all out efforts were made to get the pay anomaly rectified cropped up in the pay of the individual as a result of implementation of 3 grade structure but the case was not admitted in audit. On examination of his case higher authorities/audit authorities have reiterated that the anomaly arisen in his pay fixation consequent to implementation of 3 grade structure does not constitute any pay anomaly."

This DA was filed in September 91 and the prayer to the following effect has been made as per MA No.3601/93 which MA (for inclusion of this prayer in the relief) was allowed:

"8(a) applicants allowed the benefit of stepping up of pay on the introduction of three grade structure announced by Govt order dated 21.4.86 but effective from 15.10.84 so that their pay is protected and stepped up vis a vis their juniors similarly placed with consequential relief flowing therefrom. "

3. In the Original Application there were certain other reliefs claimed in respect of posting

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of the applicants as SCM <sup>who</sup> were having the same pay scale of Rs.1400-2300 and it was prayed that either <sup>Senior</sup> the Chargemen should be sanctioned a higher scale or <sup>if</sup> provision of FR 22 C should be extended on promotion of the applicants from the post of Chargemen to Senior Chargemen. However at the time of argument these reliefs were not pressed and only the relief with regard to the stepping of pay mentioned earlier was pressed.

4. The main grounds advanced by the learned counsel for the applicants is that seniors are made to draw less pay compared to the juniors even though their seniority with reference to such juniors had never been questioned. Due to no fault of the seniors and because of quirk of circumstances by which intermediary higher post was created the seniors are made to suffer with lesser emoluments not only in service but even after retirement.

5. On the other hand the stand of the respondents is that the instructions regarding stepping up of pay do not cover the applicants. It was argued that for extending the benefit of stepping up, the seniors and juniors must have been promoted from the same lower scale to the same higher scale and this is not so in this case.

6. Having heard ~~both the~~ counsels, we note that the seniors are drawing lesser emoluments with reference to the juniors and this situation will continue even after retirement. Thus there is a permanent loss. We are also aware that seniors cannot claim higher emoluments compared to the juniors in every possible situation. It is a common phenomenon that a direct recruit <sup>who</sup> may be senior to a promoted <sup>if</sup> personnel in the same scale may be drawing lesser

emoluments. Again due to a number of personal allowances, juniors may draw more pay than the seniors.

7. We have gone through the various instructions regarding stepping up of pay of seniors on promotion drawing less pay than his juniors. We find that generally such instructions have been issued to cover specific situations like the introduction of new pay scales <sup>where</sup> senior personnel promoted prior to the date of introduction of new pay scale may draw less pay compared to a junior promoted after the date of introduction of the new pay scale. Such anomaly is sought to be overcome by extending the benefits of stepping up. All these instructions and guidelines stipulated that both <sup>the</sup> junior and the senior should belong to the same cadre and the post <sup>from/to</sup> which they have been promoted should be identical in the same cadre. Obviously the case of the applicants in this OA is not covered by these guidelines.

8. However, equity demands that a senior person should not be made to suffer with lesser emoluments for reasons not attributable to him. We have noted the instructions issued by the DOPT in DM 4(3) - 82-Estt(P-1) dated 15.2.83 which reads as under (Swamy's Compilation of FR/SR 1990 Edition Page 93 and 94):-

" (c) As a result of introduction of Selection Grades in Groups C' and 'D' Cadres- 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 employees in the higher grade may be stepped up to make it equal to the pay of the junior person, subject to the fulfillment of the following conditions:-

- (i) The scale 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 employees 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, which is earlier."

9. We have also seen the instructions of Department of Post dated 22.3.88 (Page 111 of Sqamy's compilation of FR/SR Edition 1990). The instructions are as under:-

"(2) Stepping up of pay of L.S.G. Officials promoted under 20% and Time Bound One Promotion Schemes. It has been under consideration of this Department for some time past whether the stepping up of pay of senior before the introduction of Time Bound One Promotion Scheme introduced with effect from 30.11.83, with reference to the pay of their juniors promoted under any of the above two schemes may be allowed.

2. The matter has been examined in depth in consultation with the Finance Advice (Postal) and it has been decided that the pay of senior Lower Selection Grade officials promoted under 20% L.S.G. Scheme and those who are promoted under Time Bound One Promotion Scheme can be stepped up in consultation with I.F.A. with reference to the pay of their juniors promoted the post of L.S.G. provided all the conditions for stepping up of pay laid down in G.I.M H A Dept of Personnel and Administrative Reforms O.M. No.4(3)-82/Est(P.I) dated 15.2.1983 (Order (8) (c) below F R 22 C) and orders on stepping up of pay read with the provisions of this Directorate Letter No.3-50/74-PAT, dated 21-11-1974 and 5-2-76(reproduced below) are satisfied."

10. The consequence of the introduction of intermediary grade which was not available to the senior is the issue covered under the above instructions. By extending the same principle the applicants in this OA should be given the benefit of stepping up vis a vis the relevant juniors.

11. In the circumstances the respondents are directed to extend the benefit of stepping up of pay to the applicants vis a vis the juniors who were covered by the 3 Grade Structure Scheme with effect from 15.10.84. It is needless to add that the other basic conditions for stepping up as stipulated in DOP&T letter dated 15.2.83 should be satisfied. The respondents are given three months time from the receipt of this order to implement the above direction. The OA is disposed of with the above direction.

No costs.

*(T L Verma)*  
(T L VERMA)  
Member (J)

*(P. T. Thiruvengadam)*  
(P. T. THIRUVENGADAM)  
Member (A)

LCP