

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 719/91

New Delhi this 18th Day of April 1994

The Hon'ble Mr. J.P. Sharma, Member (J)

Shri M.M. Gupta,  
Son of Shri Basheshar Nath,  
Pay and Accounts Office,  
Ministry of Energy,  
Room No. 840, Sena Bhavan,  
R.K. Puram,  
New Delhi.

... Applicant

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India,  
through  
The Chief Controller of Accounts,  
(Ministry of Finance),  
Lok Nayak Bhavan,  
Khan Market,  
New Delhi.

... Respondents

(Shri P.H. Ramachandani)

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant who has since retired as Pay and Accounts Officer, Ministry of Energy in February 1994 filed the application on 18.3.1991 against the action of the respondents arbitrarily rejecting the prayer for stepping up pay of the applicant with reference to pay of one Shri R.K. Sharma and he prays for the grant of the relief that the pay of the applicant be stepped up and be allowed arrears on account of stepping up.

2. A notice was issued to the respondents who contested

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the application and stated that the pay of the applicant in Pay and Accounts Officer's scale with reference to the pay of Shri R.K. Sharma could not be stepped up and the request of the applicant was considered in the year 1986 and was rejected on the ground that one of the essential conditions for stepping up of pay on promotion that the junior and senior who belong to the same cadre both on the promotion post and feeder post was not satisfied in applicant's case. The applicant while working as Junior Accounts Officer belongs to cadre of Ministry of Information and Broadcasting while Shri R.K. Sharma belongs to Ministry of Agriculture. However, the applicant's pay was stepped up with reference to the pay of Shri P.K. Gupta, Pay and Accounts Officer which was done entirely on different footing and applicant cannot take advantage of this precedence to agitate his claim for stepping up with reference to Shri R.K. Sharma's pay. The stepping up was based on OM dated 20.3.1989. Prior to 1.4.1987, there was no grade of Assistant Accounts Officer and therefore promotion of Pay and Accounts Officer were being made from the grade of Junior Accounts Officer (Or the selection grade of Junior Accounts Officer). On the recommendation of the Fourth Pay Commission, the Assistant Accounts Officer's grade was introduced from 1.4.1987. Some persons like the applicant were promoted from Junior Accounts Officer to Pay and Accounts Officer while some persons were promoted first as Assistant Accounts Officer and then Pay and Accounts Officer. This introduction of intermediary grade of Assistant Accounts Officer gave rise to the higher fixation of pay as Pay and Accounts Officer in some cases. In order to remove the anomaly it was

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decided by the DM dated 20.3.1989 that Junior Accounts Officers/Junior Accounts Officers (Selection Grade) promoted as Pay and Accounts Officer before restructuring of Accounts staff in the Accounts cadre (1.4.1987) and were drawing less pay than their juniors who were first promoted as Assistant Accounts Officer and then got promotion as Pay and Accounts Officer would be entitled to stepping up of pay to make it equal to the pay of junior persons. The cadre of Junior Accounts Officer (or for that matter selection Grade Junior Officers) are decentralised Ministry/Department wise and therefore Junior Accounts Officer belonging to one Ministry/Department cannot have stepping up of pay with reference to pay of Junior Accounts Officer working in other Ministries/Departments. By the Central Civil Accounts Service (Assistant Accounts Officer) Recruitment Rules 1990 there is a single cadre for all Assistant Accounts Officer. In view of this the contention of the applicant was not accepted by the respondents.

3. The applicant filed the rejoinder. The applicant has contended that the feeder post in case of the applicant and that of Shri R.K. Sharma belongs to the same cadre<sup>and</sup> in support of the same the gradation list of Junior Accounts Officer in departmentalised accounts set up has been annexed with the rejoinder wherein the position of the applicant in that list is at Serial No. 67 while that of Shri R.K. Sharma is at Serial No. 188. The respondents according to the applicant have admitted this position by issuing the order of stepping up of pay of the applicant dated 24.9.1990 (Annexure 4). Regarding the plea of limitation raised

by the respondents the applicant in the rejoinder has stated that it is of continuing cause of action.

4. I heard the learned counsel for the parties at length and perused the record. The only objection taken by the respondents for stepping up of the applicant with reference to Shri R.K. Sharma is that Shri R.K. Sharma was first promoted as Assistant Accounts Officer and then Principal Accounts Officer and further Shri R.K. Sharma belongs to Ministry of Agriculture while the applicant belongs to Ministry of Information and Broadcasting and as such FR 27 cannot be applied in the case of the applicant. The learned counsel for the respondents during the course of the hearing filed a copy of the Central Civil Accounts Service (Group 'C') Recruitment Rules 1978. In this case the cadre has been defined to mean the post in the authorised grades of the service in any Ministry specified in Schedule 'A' to these Rules. In Schedule 'A' the details of various cadres in the Ministry has been given and Ministry of Information and Broadcasting and Ministry of Communications as well as Ministry of Planning and Statistics have been shown to have different cadres. Rules 4 of the aforesaid Rules deals with the grades in this service. The contention of the respondents regarding the definition of cadre appears to have been given a go-by by the OM dated 20.3.1989, the copy of this OM has been filed Annexure R1. The OM is materially for the decision of this case in as much as it deals with such situations where junior Accounts Officer without going through the intermediary grade of Assistant Accounts Officer <sup>were promoted as P.A.O.</sup> were promoted as P.A.O. It was found that those who have been directly promoted were drawing less pay than those officers who were promoted first in the

Assistant Accounts Officer's grade and then got promotion as Pay and Accounts Officer. In order to remove that anomaly it was decided that in such cases pay of the seniors in the higher grade (PAO's Grade) may be stepped up under FR 27 to make it equal to the pay of the junior persons subject to the fulfilment of certain conditions. These conditions are:

- a) The scale of pay of lower posts (before introduction of intermediary posts of Asstt. Accounts Officers) and the higher post in which both Junior & Senior are entitled to draw pay should be identical.
- b) The Senior persons should have been eligible for appointment to the intermediary post but for his working in the higher post on or before the date on which the junior was appointed to the intermediary posts; and
- c) The Junior person should not have drawn more pay than the senior by virtue of fixation of pay under normal rules or any advance increment granted to him in the lower post and anomaly should be directly as a result of the junior person holding the intermediary post at the time of his promotion to the higher grade.

5. The above conditions does not refer to any cadre of the Ministry/Department. It deals with the Accounts cadre as a whole. It is further lays down that actual benefit would be available with effect from 1.3.1989 or the date of the anomaly whichever is later while the stepping up of pay is done with effect from the date of promotion of the junior to the higher grade. All such cases where the above contentions are fully satisfied may be decided by the Chief Controller of Accounts/Controller of Accounts/Deputy Controller

of Accounts treating all the Pay and Accounts Officers in various accounting organisations as belonging to a common cadre after checking their seniority position with reference to the gradation list of PAOs and the pay of the Senior and juniors with reference to their service book.

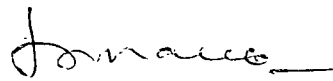
6. The above OM does not leave any doubt that there is no question of cadres being different and the respondents themselves have giving the stepping up of pay to the applicant with reference to Shri P.K. Gupta by the order dated 24.9.1990 while Shri P.K. Gupta was working as Pay and Accounts Officer in the Department of Planning and Statistics.

7. In view of this fact the applicant has made out a case for stepping up of his pay with reference to the pay of Shri R.K. Sharma. The respondents have taken an objection that the representation of the applicant was rejected in 1986 and thereafter <sup>he then</sup> did not pursue the legal remedy. The applicant himself has filed the copy of the order dated 13.10.1986. The applicant, therefore, should have come before the Tribunal within one year from that date. However, in the meantime the respondents by the letter dated 24.9.1990 gave the benefit of stepping up of pay to the applicant with reference to the pay of Junior Shri P.K. Gupta. In view of this fact the question of limitation has no meaning in this case. The case of the applicant has to be treated for stepping up of pay on the similar lines under FR 27 on the basis of OM dated 20.9.1989 (Annexure RI).

8. However, it is evident from the record that the applicant can get only the benefit of stepping up

of pay by the OM dated 20.3.1989 under FR 27 and as such he has to be given benefit as per the aforesaid OM. That OM has directed the benefit to be given of stepping up of pay with effect from the date of promotion of the Junior to the higher grade but the actual benefit would be available with effect from 1.3.1989 from the date of anomaly whichever is later. Thus, the applicant cannot get arrears of pay as has been prayed for earlier to the date given by this OM and the benefit of the judgement of K. Appa Rao and Anr. Vs. Accountant General, (A&D), Andhra Pradesh, 1993 (23) ATC P 889 cannot be extended to the applicant.

9. The application, therefore, is partly allowed with the direction to the respondents to give the benefit of stepping up of pay of the applicant as per the direction given in OM dated 20.3.1989 stepping up pay of the applicant with effect from the date of promotion to the junior to the higher grade but the actual benefit would be available with effect from 1.3.1989 or the date of anomaly whichever is later. In these circumstances parties to bear their own costs.



(J.P. Sharma)  
Member(J)

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