

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

1) O.A.No.1913/91

New Delhi: August 4th, 1995. (22)

HON'BLE MR. S.R.ADIGE, MEMBER (A)

HON'BLE DR. A.VEDAVALLI, MEMBER (J)

Shri Bakhshish Ram,
s/o Late Shri Batra Ram,
r/o 1093/V, H.V.IV, Faridabad

Worked as Deputy Secretary, Ministry of Agriculture
(Deptt. of Animal Husbandry & Dairying) New Delhi.

.....Applicant.

Versus

Union of India, through Secretary to the
Govt. of India, Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhawan,
New Delhi -110001.Respondents.

2) O.A.No.1916/91

1. Shri Alok Bhatnagar,
s/o Shri SBL Bhatnagar,
A/o A-12, 36-A, Vaishali Apartments,
Kalkaji Extension,
New Delhi - 110019.

2. Shri Ghan Shyam Singh,
s/o Late Shri Chotu Ram,
15 C/Y-1, Dilshad Garden,
Delhi -110095.

3. Shri S.P.Kutar,
S/o Late Shri Maharaj Deen,
R/o 1063/Sector XVII,
Faridabad (Haryana).

.....Applicants.

Versus

Union of India, through Secretary,
Govt. of India, Ministry of
Agriculture & Co-operation,
Krishi Bhawan,
New Delhi -110001

.....Respondent.

By Advocate Shri T.C. Agarwal for the applicant.

By Advocate Shri M.L. Verma for respondents.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

As both these O.As involve common
question of fact and law, they are being disposed

of by this common order.

2. In O.A.No.1913/91 Shri B.Ram, Deputy Secretary, Department of Animal Husbandry, Ministry of Agriculture, New Delhi has impugned the order dated 9.4.91 (Annexure-A1 of O.A.) cancelling the stepping up of pay ordered w.e.f. 20.7.87. Similarly in O.A.No.1916/91 Shri Alok Bhatnagar & two others have impugned the same order.

3. Shortly stated, consequent to the revision of pay scales as a result of the recommendations of the IV Pay Commission, the applicants' pay was fixed at Rs.13300/- p.m. w.e.f. 1.1.86 with next date of increment on 1.1.86 vide respondents' order dated 27.3.87. Upon receipt of the applicants' representation for stepping up of pay with reference to that of Under Secretary Shri J.P.Mehta, the applicants' pay was stepped up in accordance with Rule 7 CCS (RP) Rules, 1986 vide impugned order dated 20.7.87. Later on, upon further examinations the respondents held that Note 7 to Rule 7 CCS(RP)1986 was not applicable in the applicants' case, and re-fixed the applicants' pay at Rs.13300/- p.m. w.e.f. 1.1.86 with next date of increment on 1.10.86 vide order dated 22.5.89. Thereupon the applicants & others filed O.A.No.1194/89 challenging the order dated 22.5.89. The Tribunal in its judgment dated 9.11.89 in that O.A. held that the impugned order dated 22.5.89 was violative of the principles of natural justice and thus violative of Articles 14 and 16 of the Constitution, as the applicants' pay had been brought down by the impugned order with retrospective effect, without reference to any statutory provision and without giving him an opportunity to show cause before its issue. Accordingly, the impugned order was set aside,

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but the respondents were given liberty to pass fresh appropriate orders after giving an opportunity to the applicants to show cause against the action proposed to be taken against them. It was also made clear that such fresh orders would be with prospective effect.

4. The respondents filed SLP No. 1895/90 in the Hon'ble Supreme Court against the judgment dated 9.11.89 which was dismissed on 2.4.90 with the following orders:

"On merits, we see no reason to interfere. The SLP is dismissed."

5. Accordingly, after giving the applicant an opportunity to represent, and considering the same, the respondents passed the impugned order dated 9.4.91 against which this O.A. has now been filed.

6. We have heard Shri T.C. Agarwal for the applicants and Shri M.L. Verma for the respondents. Shri Agarwal has argued that the applicants have been denied stepping up of pay equal to that of ^{their} junior Shri J. Mehta, only in terms of respondents' O.M. dated 16.6.89 which clarified that if the junior started drawing more pay as a result of increment in the lower scale, Note 7 to Rule 7 CCS(RP) Rules which provided for stepping up of pay, would not be attracted, and as the Tribunal in its judgment dated 9.11.89 had held that these executive instructions contained in O.M. dated 16.6.89 could not legally modify the statutory provisions embodied in Note 7 to Rule 7 CCS(RP) Rules, which

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interpretation was also upheld by the Hon'ble Supreme Court on merits, while dismissing SLP No. 1893/90, the applicant could not be denied the stepping up of pay.⁷

7. We have considered the matter carefully. Note 7 below Rule 7 CCS(RP) Rules reads thus:

"Note 7: In cases, where a senior Govt. servant promoted to a higher post before the 1st day of January, 1986, draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January 1986, the pay of senior Govt. servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Govt. servant subject to the fulfilment of the following conditions, namely:-

(a) both the junior and the Senior Govt. servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(b) The prervised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical, and
(c) the anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22-C or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the prervised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior officer.

The orders relating to refixation of pay of the senior officer in accordance with the above provisions should be issued under Fundamental Rule 27 and the senior officer will be entitled

to the next increment on completion of his required qualifying service w.e.f. the date of refixation of pay.

The first line of the anomaly should be directly as a result of the application of the provisions of FR 22-C. The occurrence in para (c) above is significant. An anomaly is defined in the Chambers Dictionary as an 'irregularity' or 'deviation from rule'. An anomaly may therefore be said to have occurred if even in the lower post the senior officers were drawing pay in the pre revised scale at least equal to that of the junior officers, and consequent to the fixation of the junior officers' salary as a result of the application of FR 22-C, he begins to draw higher pay than his seniors, which would justify stepping of

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their pay. In the present cases, it is not denied that even in the lower post of S.O. Shri J.P. Mehta who was junior to the applicants was drawing more pay in the pre revised scale than the applicants, and under the circumstances the respondents in para 6 of their impugned order dated 9.4.91 have rightly held that no anomaly has arisen consequent to the fixation of Shri J.P. Mehta's pay as Under Secretary under F.R. 22-C, which would justify the stepping up of the applicants' pay under statutory Rule 7 Note 7 CCS (RP) Rules, 1986.

8, Under the circumstances, as the impugned order is fully in accordance with the statutory rules, no interference is warranted. These O.As fail and are dismissed. No costs.

9. Let copies of this judgment be placed in each of the two O.As' files.

A. V. Veda Valli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S.R. ADIGE)
MEMBER (A)

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