

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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OA No.1011/91

Date of decision: 23rd April, 92

Sh.Mahendra Pal and others ... Applicants

versus

Union of India and ors. ... Respondents

For the Applicants ... Ms.Nitya Ramakrishnan,
Counsel.

For the Respondents .. Sh.M.L.Verma,Counsel.

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

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

JUDGEMENT

(DELIVERED BY HON'BLE MR.T.S.OBEROI, MEMBER)

The applicants, in this OA, filed under Section 19 of the Administrative Tribunals Act, 1985, seek fixation of their pay under F.R.22-C(now amended as FR 22(I)(a)(1) consequent upon their appointment as Lower Selection Grade Supervisor from that of Lower Selection Grade Sorting Assistant, earlier held by them, in Delhi and New Delhi Sorting Divisions of the Railway Mail Service in the pay scale of Rs.1400-2300. Their case is that though the scale in the two posts i.e., the Lower Selection Grade Sorting Assistant and the Lower Selection Grade Supervisor is the same yet the latter post assumes higher responsibilities, as is evident from the very fact that they have been given an additional allowance of Rs.40/-p.m, in the latter post, they deserved to be fixed in the scale under FR 22-C(now 22(I)(a)(1)).

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2. In the counter filed on behalf of the respondents they have opposed the OA on several grounds such as, common application of this type does not lie, as individual particulars differ and, therefore, separate individual applications should have been filed; the application is belated and is, therefore, barred by limitation; and, also that the pay scales being the same there is no promotion or appointment involved by way of proper selection and that whatever arduous nature of the duties is involved in the present post held by the applicants as Lower Selection Grade Supervisor, has been compensated by grant of allowance of Rs.40 per month.

3. I have heard the learned counsel for the parties and have also perused the material on record. The learned counsel for the applicants pleaded that the application having been admitted and Misc.Petition for joining together having been allowed, the objections of the respondents in this regard are no more valid. As regards the other points, the learned counsel for the applicants pleaded that precisely, two aspects, for fixation of the pay under FR 22-C(now 22(I)(a)(1)) are to be looked into; firstly, that there should be an appointment or promotion no matter in a substantive, temporary or officiating capacity; and secondly, there should be duties involving higher responsibilities or of greater importance, and judged from these two stand points, the applicants in their present post of Lower Selection Grade Supervisor, carried out supervisory functions and hence performing duties of higher responsibilities and are, therefore, entitled

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to fixation of pay under the erstwhile provisions of FR 22-C(now as FR 22(I)(a)(1). The plea of the learned counsel for the respondents, on the other hand, is that the scale of the pay in the two posts is the same and there is no regular procedure resorted to while appointing the applicants to the post of Lower Selection Grade Supervisor, and that, therefore, the essential condition for fixation of pay under FR22-C is not attracted and hence the application deserves to ^{be} rejected, besides other objections, ^{regarding} the same being barred by time etc.

4. I have considered the rival contentions as briefly discussed above and have perused the relevant provisions as contained in FR 22-C(now FR 22(I)(a)(1). Keeping in view that the scale of posts is the same and no regular procedure has been resorted to while appointing the applicants as Lower Selection Grade Supervisor, I am of the view that no fixation as prayed for under the erstwhile provisions of FR 22-C is called for. The application is accordingly dismissed. I, however, do not think it necessary to dwell upon the other objections regarding limitation etc. in view of the decision on the application above. The OA accordingly stands rejected with no order as to costs.

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

23.4.92