

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.576/2004

Friday, this the 24th day of September 2004

Hon'ble Shri Justice V. S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

1. Khusi Ram s/o Shri Ram Chander
r/o H.No.205, NPL, Kingsway Camp, New Delhi
2. Satish Kumar s/o Shri Dig Ram Yadav
r/o V&PO Khera Dabas, New Delhi
3. Devender s/o late Shri Jaisi Ram
r/o H.No.26, Sector 3, R.K. Puram, New Delhi
4. Vinod Kumar s/o late Shri Johnson
r/o K.15, NPL, Kingsway Camp, New Delhi
5. Babu Ram s/o Shri Hari Singh
r/o 1/4162, Ram Nagar, Shadara

..Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. NCT of Delhi through the Chief Secretary
New Sectt., New Delhi
2. The Commissioner of Police
Delhi Police, Police Head Quarters
IP Estate, New Delhi
3. The Joint Commissioner of Police
Hdqrs. (Estt.) Delhi

..Respondents

(By Advocate: Smt. Sumedha Sharma)

ORDER (ORAL)

Justice V.S. Aggarwal:

The applicants are working as Group 'D' employees in Delhi Police. Applicant No.1 is a Water Carrier and all the other applicants are Daftry.

2. By virtue of the present application, they seek an order directing the respondents to grant the benefit of Assured Career Progression scheme to them in the scale of Rs.3050-4590/- as per the clarification dated 1.6.2001, which has been denied to them vide the impugned order.

3. Some of the other facts would precipitate the question in controversy. The Assured Career Progression scheme was introduced from 9.8.1999. It is





not being disputed at either end that first financial upgradation is admissible on completion of 12 years of regular service and the second financial upgradation is admissible on completion of 24 years of service.

4. The applicants joined service on different dates. Admittedly, they have been granted the financial upgradation on completion of 12 and 24 years of regular service.

5. The controversy raised on behalf of the applicants is that the second financial upgradation should be in the scale of Rs.3050-4590/- while the respondents had granted the second financial upgradation to the applicants, who have completed 24 years of regular service in the scale of Rs.2750-4400/-.

6. Needless to state that the application is being contested.

7. Learned counsel for applicants argued that the second financial upgradation is admissible to Group 'D' employees who are matriculates and who are eligible for promotion to the post of Lower Division Clerk in the scale of Rs.3050-4590/-. According to the learned counsel, the applicants are entitled to be so considered in Delhi Administration for the post of Lower Division Clerk because 5% posts are reserved on seniority basis.

8. As against this, respondents' learned counsel took up an objection that such a representation had never been made and drew our attention to the representation given by Shri Khushi Ram – applicant No.1, copy of which is at page 10. She also contended that there is no post of Lower Division Clerk in the hierarchy in Delhi Police and, therefore, the applicants are not entitled to the scale of Rs.3050-4590/-.

9. We have carefully considered the said submissions.

10. Perusal of the representation filed by one of the applicants, Shri Khushi Ram, who had completed 24 years of regular service, does reveal that he claimed the scale of Rs.3050-4590/- but he never prayed that he ~~should~~ ^{could} be promoted as Lower Division Clerk. In the absence of such a plea having been raised in the representation, we find it difficult to accept the said contention.

11. Be that as it may, even if we revert to the merits of the matter, the Office Memorandum of 1.6.2001 makes the position clear. The same reads and is being reproduced below for the sake of facility:-

B. A. G.



"This is, however, subject to the following:-

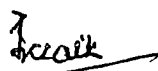
- (i) First financial upgradation on completion of 12 years of regular service shall be at least to the pay-scale of Rs.2610-60-2910-65-3300-70-4000 (S.2A)
- (ii) The second financial upgradation on completion of 24 years of regular service shall be allowed at least to the pay scale of Rs.2750-70-3800-75-400 (S-4). However, where Group 'D' civilian employees of the Central Government are Matriculates eligible for promotion to the post of Lower Division Clerk (LDC), the second financial upgradation in their case shall be allowed at least to the pay-scale of Rs.3050-75-3950-80-4590 (S-5)."


12. Even the learned counsel for applicants does not plead that there is any post of Lower Division Clerk in Delhi Police. Therefore, as per the clarification given, on completion of 24 years of regular service, the applicants could only claim the higher scale, if they were eligible for promotion to the post of Lower Division Clerk. When such a post does not exist, the only logical conclusion would be that the applicants are not entitled to the higher post.

13. To contend, as was being argued at the Bar, that the applicants are entitled to be considered as Lower Division Clerk in Delhi Administration, our attention has not been drawn to any rule whereby a Group 'D' employee of the Delhi Police is entitled to be considered for promotion in 5% quota of Group 'D' employee for the post of Lower Division Clerk. In the absence of any such rule, the said plea has to be stated to be rejected.

14. As a result of the aforesaid, we have least hesitation in concluding that in the absence of the applicants being eligible for promotion to the post of Lower Division Clerk, they cannot take advantage of the Office Memorandum of 1.6.2001. No other plea has been raised in the petition

15. The OA being without merit must fail and is dismissed.


(S. K. Naik)
Member (A)


(V. S. Aggarwal)
Chairman

/sunil/