

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.2955/92

Date of decision: 19.2.93

K.S.Bist

.. Applicant.

versus

Delhi Administration,  
Delhi .. Respondents.

Sh.V.S.R.Krishna .. Counsel for the applicant.

Sh.Madan Ghera .. Counsel for the respondents.

CORAM:

The Hon'ble Sh.S.P.Mukerji, Vice Chairman.  
The Hon'ble Sh.C.J.Roy, Member(J).

J U D G E M E N T (ORAL)

(Delivered by Hon'ble Sh.S.P.Mukerji, Vice Chairman(A) )

We have heard the learned counsel for both the parties. In this application, the applicant, who is holding the post of a Programmer in the scale of Rs.2200 - 4000 has challenged the impugned order at annexure A-1 by which he has been given a lower pay scale of Rs.2000 - 3500. Para 3 of the impugned order reads as follows:

"One temporary post of Programmer in the pay scale of Rs.2200 - 4000 with usual allowances has been created in the office of the Commissioner of Industries with effect from 1.3.1990. The present incumbent of the post namely Sh.K.S.Bist will, however, draw pay in his current admissible scale of Rs.2000 - 3500 till he becomes eligible for the higher scale of Rs.2200 - 4000 and cleared for the same by the Administration. The post of Programmer in this department was originally created vide Sanction letter No.NUC.1/(34)/

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1/83.DI/16157 dated 1.12.86 with change in  
the classification at a later stage vide  
Sanction letter No.NUC.1/(34)/1/83.DI/1041  
dated 20.2.1989".

The learned counsel for the respondents states that the applicant is not being given the pay scale attached to the post because he was not eligible and now that he has become eligible he would be given the pay scale of the post subject to the consideration by the Union Public Service Commission. We admit the application and with the consent of both the parties dispose of the same as follows.

2. It is a legal axiom that the incumbent who is posted to a particular post, as a matter of right is entitled to the pay scale attached to the post irrespective of his status whether ad-hoc or temporary or permanent. Para 3 of the impugned order is self-evident to say that firstly the applicant is holding the post of Programmer and secondly the post carries the pay scale of Rs.2200 - 4000. The question of eligibility will not arise so long as the applicant is holding the post on the prescribed pay scale. In the circumstances we allow the application at the stage of admission and direct that the applicant shall be given the pay in the pay scale of Rs.2200 - 4000 so long as he holds the post carrying that pay scale irrespective of the question of his eligibility. The arrears of pay, if any, shall be paid to the applicant within a period of three months from the date of communication of this order. No costs.

*C.J. Roy*  
(C.J. ROY)  
MEMBER(J)

*S.P. Mukerji*  
R.2.93  
(S.P. MUKERJI)  
VICE CHAIRMAN(A)