

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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OA 641/92

22.05.1992

Shri A.K. Ticku

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

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

For the Applicant

...Shri K.L. Bhandula

For the Respondents

...Ms. Jasvinder Kaur

1. Whether Reporters of local papers may be allowed to see the Judgement? yf
2. To be referred to the Reporter or not? yf

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant was appointed as Supervisor in Central Water Commission on 6.7.1964. The applicant went on deputation while working as Supervisor to Chukha Hydel Project, Bhutan for a period of three years and joined there in February, 1978. While he was working there, certain juniors to the applicant, named S/Shri S.K. Kaul, M.L. Batra were given ad hoc promotion in April, 1978. The applicant along with all the juniors became regular w.e.f. 9.3.1982 vide Notification dt.22.10.1982. The applicant returned from deputation on 31.1.1981 and was immediately promoted to the next higher post of Extra Assistant Director/Assistant Engineer on ad hoc basis w.e.f. 15.7.1981 vide Notification dt.31.7.1981/5.8.1981 and the pay of the applicant was fixed at Rs.680 p.m.

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2. The grievance of the applicant is that while he was on deputation, he was never given an option to return and avail of the ad hoc promotion which was awarded to his juniors- S/Shri Kaul and Batra. By virtue of this fact when the applicant joined on promotion in July, 1981, then his pay was Rs.680 p.m. while that of his juniors aforesaid has been fixed at Rs.740 p.m. By virtue of this fixation of pay, the applicant has been put to a continuous loss.

3. The learned counsel for the respondents appeared today and filed the counter in the Registry today itself, which has been taken on record. The learned counsel for the respondents contended on the basis of the counter filed that the judgements given in similar other cases, as referred to in para-1 of the OA are matter on records and need no reply. A number of *judgements on similar issue have been given which are noted below.

4. In view of the above facts, the respondents in their counter in para 4.9 stated that those judgements were applicable.

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 - 1. OA Nb.1621/89 (Sh.P.P.Abdurahaman vs. UOI & Ors.)
 - 2. OA Nb.1626/89 (Sh.Madan Gopal Arora vs. UOI & Ors.)
 - 3. OA Nb.1628/89 (Sh.S.K. Kshatri vs. UOI & Ors.)
 - 4. OA Nb.1769/89 (Sh.M.K. Dhar vs. UOI & Ors.)
 - 5. OA Nb.1856/89 (Sh.B.C. Dutta vs. UOI & Ors.)
 - 6. OA Nb.2330/89 (Sh.R.C. Agarwal vs. UOI & Ors.)

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to those particular cases only. However, all those cases give a ratio deciding the issue that when a senior goes on deputation and in his absence when he worked on deputation under valid orders, the juniors posted in the parent department have been considered and given ad hoc promotion without asking the said senior, then in that event when the senior comes and joins the parent department and is given promotion, then his initial pay should be fixed in accordance with Next Below Rule giving the benefit of the fixation of pay of the service rendered by the junior on a presumptive basis.

5. Otherwise also in the present case, the applicant has given a comparative chart of the applicant himself and that of his junior, Shri S.K. Kaul, which is reproduced below :-

	Shri A.K. Ticku Applicant	Shri S.K. Kaul Junior to Applicant
1. Date of joining in grade of Supervisor	6.7.1964	8.7.1964
2. Sl.No. in the seniority list of Supervisor as on 30.11.85	171	172
3. Pay drawn in the grade of Supervisor 1.7.1977 (Scale Rs.425-700)	Rs.560/-	Rs.560/-
4. Date of promotion on ad-hoc basis in the grade of EAD/AE (Scale Rs.650-1200) from deputation)	15.7.81 (On repatriation)	29.4.78
5. Pay drawn in the grade of EAD/AE on ad-hoc promotion in July, 1981	Rs.680/-	Rs.740/- (Already being drawn.)
6. Date of regular promotion without break	9.8.82	9.8.82
7. Sl.No. in the seniority list of EAD/AE as on 1.1.90	34	36
8. Pay in the grade of EAD on regular promotion.	Rs.740/-	Rs.845/-

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It goes to show that it shall be arbitrary and unjust to fix a senior at lower level in the same scale of pay and the same cadre giving at the same time higher pay to his next junior.

6. It was expected that the respondents should have themselves allowed the benefit of the aforesaid judgements which pertained to their own department and similarly situated applicants who were earlier Supervisor and subsequently promoted as Extra Assistant Director/Assistant Engineer, firstly on ad hoc basis and then on regular basis. When the respondents have not fixed their pay to the applicant, this Court will not fail them.

7. After considering the various contentions raised by the learned counsel for the respondents on the basis of the counter, the application is allowed and disposed of in the following manner :-

The respondents are directed to fix the pay of the applicant w.e.f. 15.7.1981 at the level of pay drawn by his junior, Shri G.K. Kaul with consequential benefits of increment, allowances etc. and the benefit of refixation in the revised pay scale and the promotional post of Assistant Director be also given as per Extant Rules. The arrears be also paid to the applicant. The respondents shall comply with the above directions within a period of three months from the date of receipt of a copy of this order. Costs easy.

J. P. Sharma
22/5/92 J. P. SHARMA
MEMBER (J)