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In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.999/92

Date of decision:16.02.1993.

Shri Karan Singh & Others

...Petitioners

Versus

Union of India through the
Secretary, Ministry of
Communications, Department of Posts
and Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners

Shri Sant Lal, Counsel.

For the respondents

Shri M.L. Verma, Counsel.

Judgement (Oral)

Shri Karan Singh and 22 others have filed this Application aggrieved by the orders of the respondents dated 28.1.1991 and 16.1.1991 rejecting their representation against the withdrawal of the benefit of stepping up of pay allowed to them with reference to their juniors who were drawing higher pay in the revised scale of pay. The case of the petitioners in brief is that petitioners No.1-19 were promoted to Selection Grade on 30.11.1983 in the pre-revised pay scale of Rs.210-270 and petitioners No.20-23 were promoted to Selection Grade w.e.f. 14.1.1985 under Time Bound One Promotion (TBOP for short) Scheme. The petitioners thus came to be promoted to the Selection Grade before the crucial date on 1.1.1986 when the revised scales recommended by the Fourth Central Pay Commission were given effect to. Two of their juniors S/Shri Puran Chand and Mohinder Singh were promoted to the grade of Rs.800-1150 w.e.f. 27.11.1986 and 5.12.1986. The pay

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scale of Rs.800-1150 is the replacement scale of Rs.210-270(pre-revised). As the pay of Puran Chand who was junior to petitioners NO.1-17 was fixed at higher level at Rs.965. Consequently, the pay of the petitioners No.1-17 was stepped up to the stage of Rs.965. The pay of petitioners No.18-23 was stepped up to the level of their junior Shri Mohinder Singh at Rs.950. The stepping up of pay was sanctioned in terms of note-7 below rule-7 (1) of CCS Revised Pay Rules, 1986 and Government of India, Ministry of Home Affairs (DOP&AR) OM No.F.4(4)/82-Est.A(Pt) dated 25.5.1983. The stepped up pay, however, was withdrawn in view of the audit inspection note of 11.5.1990. The petitioners made representations but they were rejected vide order dated 16.1.1991 (Annexures 2 & 3 of the O.A.). It is against this background that the petitioners have filed this Application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

- i) To set aside the impugned orders (Annexures A1 to A-3)
- ii) To declare that the pay of the applicants had been rightly stepped up and they are entitled to the same.
- iii) To restrain the respondents from reducing the pay of the applicants and making any recovery therefrom.
- iv) To direct the respondents to release the increments which they have illegally withheld from Jan.1991.

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2. Shri Sant Lal, learned counsel appearing for the petitioners brought to my notice the order No.2-36/91-PAP dated 12.11.1992 issued by Respondent No.1, directing Respondent No.2 "that the officials promoted under T.B.O.P scheme have been permitted to give option in the light of this office letter No.31-26/83-PE-I dated 21.3.84." There is a further direction that "In view of the above you are requested to examine the feasibility of stepping up of the pay of the officials in consultation with IFA of your circle in the light of the above clarification read with Ministry of Personnel, Public Grievances & Pension (D.O.P&T) OM No.4/1/90 Estt Pay.I dated 22.10.90 circulated under this office endorsement No.1-16/90-PAP dated 27.11.90."

3. The learned counsel submitted that ordinarily this direction should remove the grievance of the petitioners. He, however, submitted that the respondents may be directed to implement these orders in a fixed time frame so that the petitioners are not put to any further hardship.

4. The stand of the respondents is that the petitioners were not covered fully by the conditions laid down in note-7 below Rule-7 (1) of CCS (RP) Rules, 1986 as the anomaly was not directly due to the application of FR-22(C) and it was for that reason that the stepping up of pay earlier sanctioned was withdrawn.

5. I have heard the learned counsel for both the parties and considered the matter carefully. According to the provisions made below note-7 under Rule-7 of CCS (RP) Rules, 1986 the stepping up of pay is allowed subject to the following conditions: -

"Removal of anomalies arising as a result of revision of pay scales from 1st January, 1986.--Where a Government 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 the senior Government 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 Government servant subject to the fulfilment of the following conditions, namely:-

(a) both the junior and the senior Government servant should belong to the same cadre and the posts in which they have been promoted should be identical in the same scale. (b) the pre-revised 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 F.R. 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 pre-revised scale than the senior by virtue of any advance increments granted to him, these provisions need not be invoked to step up the pay of the senior officer.


2. The orders relating to re-fixation of the pay of the senior officer in accordance with the above provisions should be issued under F.R.27 and the senior officer will be entitled to the next increment on completion of his required qualifying service with effect from the date of re-fixation of pay."

6. It is observed from the above that the anomalies to be removed in terms of note-7 adverted to above are not only the anomalies which have arisen on account of the operation of FR 22-C but also on account of any other rule or order regulating pay fixation. The stand of the respondents, therefore, is

not supported by the statutory provisions made in the rules. The learned counsel for the petitioners also referred me to the DOP&T OM dated 22.10.1990 which again repeats the same conditions which have been reproduced above for the purpose of resolving such an anomaly.

7. In the above circumstances, I am of the opinion that the petitioners are entitled to the stepping up of the pay. The same has already been authorised vide order dated 12.11.1992 issued by Respondent No.1 to Respondent No.2. Accordingly, I direct that the respondents shall take action on implementing the orders dated 12.11.1992 with utmost expedition and preferably within three months from the date of communication of this order. The orders at Annexures A-1, A-2 and A-3 stand already invalidated by the order dated 12.11.1992 and are accordingly set-aside and quashed. After re-fixing of the pay the respondents shall also release the increments of the petitioners which have been withheld by them in accordance with the normal rules.

8. The O.A. is disposed of, as above. No costs.


(I.K. Rasgotra)
Member (A)

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