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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

OA No.847/93

New Delhi, this 1st day of November, 1993.

Hon'ble Mr B.N.Dhoundiyal, Member(A).

S.C.Malik S/O late Behari Lal Malik,  
resident of A-2357, Netaji Nagar,  
New Delhi - 110 021, working as Assistant  
Surveyor of works in the office of the  
Ex. Engineer PWD Division No.XIV(DA) R.R.  
lines, Ring Road, New Delhi - 110 010. .... Applicant.

Applicant in person.

vs.

1. Secretary, PWD Delhi Administration Vikas Bhawan, I.P. Estate, New Delhi.
2. Director General of Works CPWD, Nirman Bhawan, New Delhi.
3. Chief Engineer, PWD Zone-I, Delhi Administration, Kasturba Gandhi Marg, New Delhi.

.... Respondents.

Through Mr P.P.Khurana, Advocate.

ORDER(oral)

B.N.Dhoundiyal, Member(A)

Heard the learned counsel for the respondents and the applicant, who is present in person. The applicant is aggrieved by office Memo. dated 22.01.1993, whereby his request for removal of <sup>pay</sup> anomaly has been rejected. The case of the applicant is that his juniors, who were appointed as Junior Engineers and then promoted as Assistant Engineers are drawing more pay than him and he has cited the examples of S.C.Arora and Shri J.C.Kumar, whose pay have been stepped up under F.R.27 and fixed as Rs.680/- w.e.f.1.8.1976. In the cadre of Junior Engineer the selection grade fell due on 1.8.1976 but it was denied to the applicant on the ground that he was already officiating as Assistant Engineer

on that date. He was also denied the benefit of his officiating service as Assistant Engineer. He has prayed that his pay be stepped up and re-fixed equal to his juniors w.e.f.1.8.1976 as has been done in other cases.

2. The averments made in the counter filed by the respondents are these. The examination of the case of the applicant reveals that his juniors were drawing more pay than him because of the fact that they availed their promotion as Assistant Engineer after being placed in the selection grade of Junior Engineers which was ordered by the Director General(works) w.e.f. 1.8.1976 whereas Shri Malik started officiating as Assistant Engineer w.e.f.23.7.1976. Had Shri Malik been promoted as Junior Engineer he would have been appointed to the selection grade from his due date. The instructions contained in Ministry of Home Affairs O.M.dated 15.2.1983 cover cases where a senior Govt. servant promoted <sup>a</sup> to higher post before the introduction of non-functional selection grade draws less pay than his juniors who is promoted to a higher post later, after having been appointed in the selection grade. The respondents have argued that the benefit of this circular cannot be extended to Shri Malik as he was an adhoc promotee on the date he assumed the charge as Assistant Engineer on 23.7.1976.

3. This is a case where the applicant has been wrongly denied the selection grade due to him on the basis of next below rule. He has also not derived any benefit because for a long time his officiating appointment as Assistant Engineer was

not regularised. In view of this, the application succeeds and the respondents are directed to review the pay fixation case of the applicant on the basis that he would have been given selection grade w.e.f.1.8.1976 as in case of his juniors. Re-fixation of his pay should be done on the same basis as adopted in case of his similarly situated colleagues. Necessary orders in this behalf shall be issued within a period of four months from the date of communication of this order.

4. There will be no order as to costs.

Ist Nov., 1993.  
(SDS)

*B. N. Dholiyal*  
(B. N. Dholiyal)  
Member(A).