

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NO. 04 OF 2005.

ALLAHABAD THIS THE 4TH DAY OF SEPTEMBER, 2009

HON'BLE MR. JUSTICE A.K. GAUR, MEMBER-J
HON'BLE MRS MANJULIKA GAUTAM, MEMBER-A

1. Radha Mohan Son of Sri Sheo Govind P.A. No. 37405 F
Presently Posted as UDC at MET Section 402 Air Force
Station Chakeri Kanpur.
2. R.K.S. Jadaun Son of Sri Budh Singh. P.A. No. 37399-A
Presently posted as U.D.C. at Station Civil
Administration 402 Air Force Station Chakeri Kanpur.
.....Applicant

By Advocate : Shri S. Upadhayay.

Versus

1. Union of India, through the Secretary, Ministry of
Defense, New Delhi.
2. The Air Officer I/C Personnel Air Head Quarters Vayo
Bhawan New Delhi.
3. The Air Officer Commanding 402 Air Force. Station
Chakeri Kanpur Nagar.
4. Subhash Chaudhary at present C.G.O. (A) OI/C Civil
Adm. 402 Force Station Chakeri Kanpur Nagar.
5. H.O.M.C. Indian Air Force Vayusena Nagar, Nagpur.

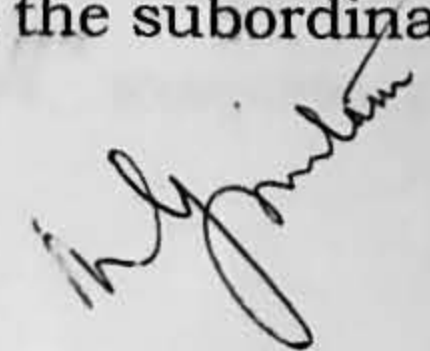
.....Respondents

By Advocate Shri S. Srivastava.

ORDER

DELIVERED BY HON'BLE MRS MANJULIKA GAUTAM, MEMBER-A

The facts of the case are that applicant No. 1 was initially appointed as LDC on 4.8.75 in the Ministry of Supply in the subordinate office of the Director, Supply

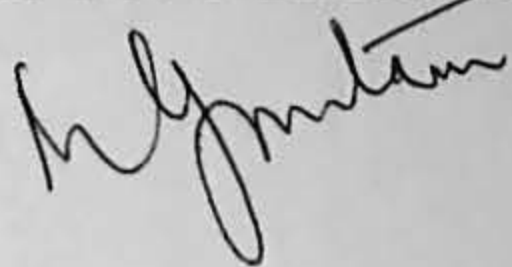


and Disposal, Kanpur. The applicant no. 2 was appointed as LDC on 5.7.82 temporarily in the office of DSND, Kanpur through Staff Selection Commission.

2. Both the applicants by means of OA 560/02 challenged the promotion list dated 7.12.07, whereby the applicant No. 1 was shown at Sl. No. 8 and the applicant No. 2 was placed at Sl. No. 17 in the seniority list.

3. The OA was decided with the direction to Respondent No. 3 to decide the representation of the Applicants dated 20.2.2002 and 27.2.2002 by speaking and reasoned order within a period of 3 months from the date of copy of order is received.

4. Respondent No. 3 failed to decide the representation within specified period and on his request he was granted further two months time. Applicant No. 1 alongwith another filed Contempt Petition No. 175/2003. Respondents filed their Counter Affidavit on 12.02.2004 annexing a copy of order dated 10.12.2003 which were in compliance of Tribunal's order dated 08.05.2002. The Contempt Petition was closed after passing specific order dated 12.12.2003 that this revised seniority list may be given effect to and the applicants be informed accordingly within a period of two months. Applicant No. 1 moved several representations for compliance of the order dated 12.2.2004 and again another representation dated 21.07.2004. The applicants requested for stepping up of their pay at par with their juniors. Vide letter dated 24.07.2004, Respondent No. 3 informed that the revised



seniority list has been prepared in response to the order of Hon'ble Tribunal but no case was made out for stepping up of pay.

5. Aggrieved by the impugned order dated 24.07.2004 the applicants have filed present OA seeking following reliefs:-

- (a) This Hon'ble Tribunal may kindly be pleased to call for records pertaining to seniority, fixation of pay anomaly**
- (b) and be further pleased to set aside the impugned orders dated 24.07.2004 passed by respondents (Annexure No. 1 to compilation No. 1.**
- (c) The Hon'ble Tribunal may be pleased to direct the respondent No. 1 & 3 to take appropriate action against respondent No. 4 for his illegal, malafide and deliberate in action against petitioners.**
- (d) To award the cost throughout in favour of applicants.**
- (e) Pass any order which this Hon'ble Court may deem fit and proper in the present circumstances of the case.**

6. Having perused the record on file and heard both the counsel it is clear that grievance of the applicants regarding their seniority has been cleared but their request for stepping up of pay as their juniors were drawing more pay has been rejected vide order dated 24.07.2004.

7. It is clarified in the letter that "Stepping up of pay could be done only in the cases where anomaly had arisen due to application of FR 22 (1) (a) (i). In your case

M. J. Prasad

there is no anomaly, hence stepping up of pay at par with junior is not being done."

Rule position for stepping up of pay as par OM Department Personnel and Training dated 31.07.1995 (annexure CA6 of the Counter Affidavit) reproduced as follow: -

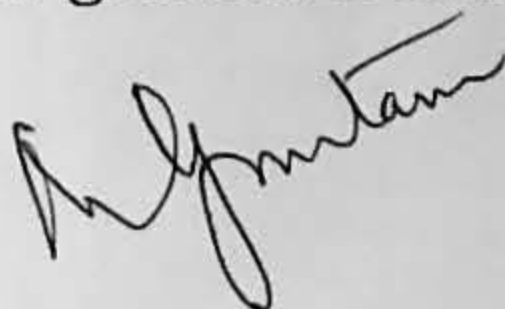
(27) Instance which do not constitute an anomaly for stepping up of pay with reference to juniors – Cases for stepping up of the pay of seniors in a pay scale to that of juniors are generally considered if the following conditions as satisfied :-

(a) both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;

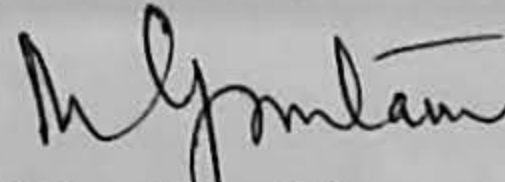
(b) the scales of pay of the lower and higher posts in which the junior and senior officer are entitled to draw pay should be identical;

(C) the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from; time to time a higher rate of pay than the senior by virtue of grant of advance increments or on any other account, the above provisions will not be invoked to step up the pay of senior officer."

8. The case made out by the applicant No. 1 has been examined on the basis of the above Rule and he has been replied vide letter dated 14.09.2004 (Annexure CA5) wherein it has been clarified that his junior has earned higher pay by virtue of his earlier appointment as JMO and also the ACP granted to him.



9. In view of the above facts no case seems to be made out for in intervening in the matter. O.A. is accordingly dismissed. No costs.


Member (A)


Member (J)

Shashi/-