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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A.NO. 1154 of 1988

K.A.Trivedi

....

Applicant

Vs.

Union of India & Others

....

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

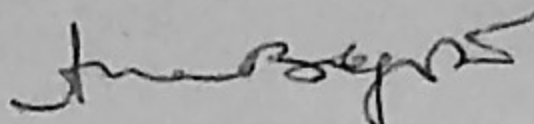
The applicant was appointed as R.S.A. in the Telecommunication department in the year 1969, and was promoted in the pay scale of Rs.425-700 as Junior Engineer (now Junior Telecommunication Officer Cadre) against the departmental vacancies for the year 1979, and after completion of training he was posted on 2.6.81.


2. The grievance of the applicant in this case is that his pay has not been fixed under Fundamental Rule 22(a)(1) and Fundamental Rule 22(c), and accordingly he had prayed for fixation of pay and quashing the order by which the same has been rejected. The ^{pay} promotion of the application was fixed at the stage of Rs.500/- PM on 2.6.81 under Fundamental rule 22(c) but the applicant discovered that there were anomalies in the fixation of pay in case of Sarve Sri Jagdish Prasad and Surendra Singh who were promoted in the scale of Rs.425-700/- as Junior Engineer on 7.1.85 later than the applicant and their pay was fixed at the stage of Rs.545 on 7.11.85 under the same Fundamental Rules referred to above, and that is why he made representation against the same. The applicant could not get any relief from the department and authority who gave the reply to the representation of the applicant in negative to his request. The applicant grievance is that anomalies arose

because the applicant was not asked to exercised his option to get his pay fixed under Fundamental Rule 22(c) from the date of his promotion or from the date of next increment from the previous cadre from which he was promoted. The respondents have rejected his representation on the ground that he did not exercised his option. According to the applicant by virtue of having exercise the option would have become entitled to the fixation of his pay at the stage of Rs. 500/ PM on the date of his promotion i.e. 2.6.81 under Fundamental Rule 22(a)(i) and on 1.3.82 his pay would have refixed at the stage of Rs.530/- under Fundamental Rule 22(c) in case he would have been given a chance to opt for the manner in which is pay was to be fixed by the department. The same question in this case for consideration as to whether the applicant had exercised his option or the option should been taken by the department or authority themselves when the applicant got promotion. This question was raised earlier in this Tribunal in the case of V.P. Chaudhari Vs. Union of India to reference No. 1150(T) of 1986 decided on 19 February, 1986 where in the Tribunal has taken on the basis of instructions issued by the department itself a view on the basis of the instruction which was issued by the department itself vide letters dated 26.9.81 by the Director General of Post & Telegram and as per the instructions which have been quoted in the said judgment, duty was ^{cast} ~~costs~~ upon the said authority to obtain^d option of a government servant before passing the suitable order. As the same was not done and it was held that the party concerned was entitled to fixation of his pay under the Fundamental Rule 22(a)(i) raising his pay to Rs.500/- old scale with 2 increments with effect from 1.2.1982 under Fundament Rule 22(c). We do not find any reason to disagree from the ~~very~~ said decision, and the same principles apply in this case also as ^{the} Chaudhari was also the employee of

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very said department and the same dispute has arisen in this case. Accordingly this application is allowed, and the order dated 3.2.88 is quashed and the respondents are directed to fix the applicant's pay in accordance to Fundamental Rule 22(e)(i) and Fundamental Rule 22(c) and give him the increments/ and arrears to which he is entitled to. Let it be done within a period of 3 months. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

5th December, 1991, Alld.

(sph)