

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

CIRCUIT BENCH AT NAINITAL.

Dated : This the 28th day of May 2001.

Original Application no. 1048 of 1995.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Maj Gen K.K. Srivastava, Member-A.

Sri G.S. Karki,

S/o Late Shri Sher Singh Karki,

R/o 88-A, Bist Lodge, Old Dalanwala,

Dehradun and at present working as Professional
Assistant (H) in the Office of The Executive Engineer,
Central Water Commission, Himalayan Ganga Division,
7B, Sewak Ashram Road, Dehradun.

... Applicant

C/A Shri K.C. Sinha

Versus

1. Union of India represented through :
The Secretary to the Govt. of India,
Ministry of Water Resources,
Shram Shakti Bhawan,
Rafi Marg, New Delhi.
2. The Chairman,
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi.
3. The Executive Engineer, Central Water Commission,
Himalayan Ganga Division,
7-B Sewak Ashram Road, Dehradun.

... Respondents

C/Rs Km Sadhana Srivastava

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ORDER

Hon'ble Maj Gen K.K. Srivastava, Member-A.

The applicant has come up seeking relief to the effect that letter dated 08.08.1985 issued by Shri J.L. Chugh, Under Secretary (I), Central Water Commission to the Executive Engineer, Himalayan Ganga Division, Respondent no. 3 (Annexure A-10) directing him to refix applicant's pay on promotion ^{of} to the post/Professional Assistant (H) under FR 22 (i) (a)(L). It has been prayed that respondents be restrained from recovering any amount alleged to have been overpaid to him.

2. Briefly the facts are that applicant was appointed as Junior Computer in Ministry of Irrigation w.e.f. 4.4.1965 ^{on} and transfer from Ministry joined Central Water Commission as Junior Computer on 15.2.1966. Promoted to the grade of Senior Computer w.e.f. 1.12.1977 in the scale of Rs. 150 - 380, which was revised to 2 grades viz Rs. 330 - 560 for 80% and Rs. 425 - 700 for 20% on recommendation of 3rd Pay Commission. Senior Computers approached the Principal Bench of Central Administrative Tribunal, New Delhi, and it was held in B.S. Saini & Ors versus Union of India & Ors ⁱⁿ T 335 of 1985, that there should be only one scale and Senior Computer be given pay scale of Rs. 425 - 700. The judgment was acted upon by the respondents and benefit was given to applicants. The view taken in Saini's case has been followed throughout the country by various benches and applicant was given the scale of Rs. 425 - 700.

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The applicant was promoted as Professional Assistant (H) w.e.f. 2.3.1987 on regular basis in the scale of Rs. 1400 - 2300 ^(revised) Since the pay scale of Professional Assistant/Statistical Assistant/Research Assistant was the same as that of Senior Computer a revision of pay scale from Rs. 425 - 700 to Rs. 550 - 900 was sought for and it was held by the Principal Bench in O.A. no. 1776 of 1988 R.K. Gupta & Others Vs. Union of India & Others that the pay scale of Professional Assistant be rationalised to a higher grade than that of Rs. 425 - 700 (old) which is the scale of Senior Computer (feeder post). The rationalisation should take place at least from 1.1.1988. Consequently the scale of Professional Assistant & others was revised to Rs. 1400 - 2600 ^(new) The applicant was given this scale w.e.f. 2.3.1987 (Annexure A-7).

In the letter dated 8.8.1985 (Annexure A-10) sent by Central Water Commission to the Respondent no. 3 it was pointed out that the ~~pay~~ ^{pay} ~~scale~~ ^{scale} of Professional Assistant (H) has been incorrectly fixed as Rs. 1400 - 2600 instead of Rs. 1400 - 2300 and the applicant's pay be refixed in the scale of Rs. 1400 - 2300 under FR 22(a) (ii).

3. Learned counsel for the applicant submitted that the post of Professional Assistant is a promotion post ~~from~~ ^{for} Senior Computer, which is the feeder cadre. The duties and responsibilities of Professional Assistant ^{are} ~~is~~ of greater importance, as Professional Assistant supervises the work of Senior Computer and hence the pay of the applicant should be fixed under FR 22 (c) (old),

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(i)
FR 22 (i) (a) (new) from the date of his promotion
w.e.f. 2.3.1987 irrespective of the fact that the pay
scales of both the posts viz Senior Computer and
Professional Assistant are same.

4. On the other hand the submission of learned
counsel for the respondents is that the benefit of
uniform scale was given by mistake to the applicant
as on 2.3.1987 the date on which the petitioner was
promoted as Professional Assistant (H) the scale of pay
of Senior Computer and Professional Assistant (H) were
identical ie. Rs. 1400 - 2300. The petitioner is not
entitled to the refixation of pay under 22 (i) (a) (1)
as the duties and responsibilities of Professional
Assistant (H) and Senior Computer are same. It was
also submitted that the petitioner did not avail of
the departmental remedies.

5. We have considered the various arguments placed
before us by the learned counsel for the parties and
perused the records. The crux of the matter is whether
Professional Assistant is a promotion post from Senior
Computer or not. The duties of Professional Assistant
and Senior Computer have been given in the charter of
duties of various scientific and statistical and
Isolated category posts dealt with by Estt XI Section
Central Water Commission (Annexure RA-2). They are

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as under :-

PROFESSIONAL ASSISTANT (HYDROMET)

1. Checking of rainfall data copied ~~by~~ the computers.
2. Checking of all other computations and work done by computers.
3. Drawing of theiseon polygon net work required for weighted rainfall calculations.
4. Selection of heavy rainfall spells for design storm studies.
5. Analysis of self- recording rainfall data and preparation of frequency tables.
6. Preliminary drawing of isoghyets.
7. Maintenance of files and rainfall records.

SENIOR COMPUTOR

1. Computational work.
2. Working out quantities from the detailed measurements.
3. Checking the quantities already worked out
4. Compilation and processing of data in various formats.

6. On perusal of the duties of Professional Assistants and Senior Computor, we are of the considered opinion that the Professional Assistant is a promotion post for Senior Computor mainly for two reasons, firstly, the Professional Assistant vide item 2 of the charter of duties supervises the work of the Senior Computor and secondly, Senior Computor is feeder cadre for professional Assistant. Therefore, the applicant shall be deemed to have been promoted from the post of Senior Computor to that of Professional Assistant and, thereby, is entitled to pay fixation under FR 22 C (old), FR 22 (i) (a) (i) new.

The question before us is ^{hw} ~~that~~ the date from which the applicants's pay is to be fixed under FR 22 (c) (old) whether from 2.3.1987 the date on which the applicant was promoted as professional Assistant or from 1.1.1988 as per Central Water Commission letter dated 29.3.1994 (Annexure (A-5)). ^{hw} It will meet the ends of justice if the benefit of pay fixation under FR 22 (c) (old) is given ~~from~~ 1.1.1988 as ^{hw} per letter dated 29.03.1994 referred to above in this para.


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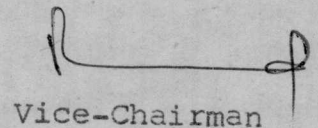
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7. In view of the above the OA is allowed.

The order dated 08.08.1995 (Annexure A-10) is quashed with direction to the respondents to fix the pay of the applicant in scale of Rs. 1400 - 2300 w.e.f. 1.1.1988 on notional basis and ^{from} 5.7.1993 on actual basis under FR 22 (c) (old), FR 22 (i) (a) (i) (new) as per Central Water Commission order dated ^(29.3.1994) 16.3.1994 (Annexure A-5).

8. There shall be no order as to costs.


Member-A


Vice-Chairman

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