

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 14th day of March 2007

Original Application No. 132 of 1999

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Y.N. Tyagi, Assistant Foreman in Ordnance Factory
Muradnagar, Distt: Ghaziabad.

. . . Applicant

By Adv: Sri A.V. Srivastava & Sri A.K. Dave

V E R S U S

1. The Union of India through Secretary, Ministry of Defence, Govt. of India, Sena Bhawan, New Delhi.
2. The Chairman, Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Marg, Calcutta.
3. The General Manager, Ordnance Factory Muradnagar, Distt: Ghaziabad.
4. Chief Comptroller of Accounts (Defence), 10-A, Shaheed Khudi Ram Bose Marg, Calcutta.

. . . Respondents

By Adv: Sri S. Singh

O R D E R

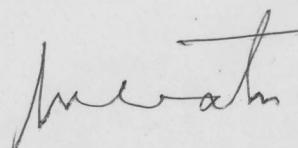
By Hon'ble Mr. P.K. Chatterji, Member (A)

The applicant seeks direction of the Tribunal to the respondents to amend and remove the anomaly in fixation of pay of the applicant at par with his junior Sri A.K. Singhal w.e.f. 01.01.1973. The applicant was promoted as Supervisor 'A' in December 1971 in the pay scale of Rs. 205-280. He was then redesignated as Charge man Gr 'II' on 01.01.1980 and

was further promoted as Charge man Gr. 'I' on 25.02.1985 in the pay scale of Rs. 550-750. Thereafter, he was promoted as Assistant Foreman (Technical) from 12.09.1994 the scale of which was revised by the V Pay Commission and his pay was revised at Rs. 790 per month.

2. The applicant has stated that as Supervisor 'A' his pay was fixed at 205-280 from December 1971. Whereas, Sri A.K. Singhal was promoted as Supervisor Gr 'A' from April 1072 when his pay was fixed at Rs. 205 per month. On 01.01.1973 the applicant was drawing Rs. 212 per month while Sri Singhal was drawing Rs. 205 per month. However, after granting the revised scale of Rs. 425-700 for the Supervisor 'A' in the year 1989 the pay of the applicant and his junior was fixed at Rs. 425 per months w.e.f. 01.01.1973.

3. It has been further stated by the applicant that when annual increments were earned by the junior Sri A.K. Singhal he was granted Rs. 440/- from 01.04.1973 per month but the applicant would get the annual increment only w.e.f. 01.12.1973 when his pay was fixed at Rs. 440/- per month. It is thus seen that on 01.01.1973 the pay of both were same in the pre revised scale. The first difference crept in while granting the increment in the revised scale in 1989. While the applicant was

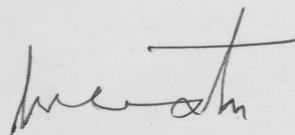


given the increment on 01.12.1973, Sri Singhal was given the same from 01.04.1973.

4. The applicant has further stated that vide DFB letter dated 25.08.1989 official were allowed to exercise fresh option for notional re-fixation of their pay scales from the actual date of their holding the post of Supervisor 'A'. The officials pay was allowed to refix notionally w.e.f. 01.10.1.1986. Accordingly the applicant submitted his revised option well within the specified period w.e.f. 25.10.1989 and requested the respondents for the following:

- a. To accept the option in the pay scale of Rs. 425 -700 from 01.01.1973.
- b. To grant next increment from 01.01.1973 instead of 01.12.1973.
- c. To accept the option for fixing the scale to Rs, 675 per month from 01.04.1985.
- d. To opt for the IV Pay Commission revised scale of Charge man Gr 'I' at Rs. 2150/- from 01.04.1987.

5. This was forwarded to the respondents to accept the applicant's option for consideration. However, after a long delay on 08.02.1993 the respondents informed that acceptance of clause II of the options of the applicant was limited to the benefit which was awarded upto and before the date of applicant's promotion to Charge man Gr 'I'. It was also stated

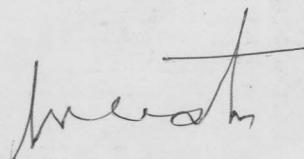
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by the respondents that because the applicant opted for the scale from the date of his promotion whereas his junior Sri Singhal opted from his increment date i.e. 01.04.1985, the request of the applicant could not be acceded to without Govt. sanction for the same.

6. The applicant continuously reminded the respondents to remove the anomalies but to no effect. With the above noted facts the applicant has approached this Tribunal to quash the impugned order of respondent NO. 3 dated 30.05.1998 rejecting his request for antedating his increment and to issue directions to the respondents to fix the pay of the applicant w.e.f. 01.01.1973 in the scale of Rs. 425-700 and fix his pay at Rs. 440/- per month from 01.04.1973 and give him all consequential benefits.

7. In opposing the OA the respondents have stated that consequent upon the grant of pay scale of Rs. 425 - 700 as Supervisor 'A' from 01.01.1973 the applicant was allowed to exercise options for choosing to draw his pay in the revised pay scale as per CDS (RP) rules 1973 and 1986. In response the applicant had submitted his options as follows:

- a. to fix his pay in the revised scale of Rs. 425 - 700 from 01.01.1973.

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b. to grant next increment from 01.04.1973 instead of 01.12.1973 at par with his junior.

c. to fix his pay on promotion to Charge man I from 01.04.1985 instead of actual date of promotion i.e. 25.02.1985.

d. to fix is pay as per IV Pay Commission in the revised scale from 01.04.1987 on reaching his pay at Rs. 725/- per month.

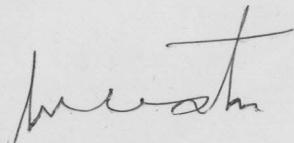
8. The respondents have further stated that the applicant's request was forwarded to finance authorities which was returned vide letter dated 20.06.1991 with the observation that the applicant was appointed as LDC whereas his junior as Boy Artisan and therefore stepping up in these cases was not permissible.

It has further been stated that after receiving the applicant's request dated 25.10.1989 it was again forwarded to the finance authority who however returned the same with the following observations:

"i. It has been observed from the service books of both the individuals that Sri A.K. Singhal got his pay fixed after exercising option w.e.f. 01.04.1985 (the date of next increment in the lower grade) under DP & AR OM No. 7/1/80-Estt (Pay-I) dated 26.09.1981 whereas your (Sri Y.N. Tyagi) pay was fixed w.e.f. 25.02.1985 (date of promotion of Chargeman Grade-I) under FR-22-C. As such your pay cannot be stepped up at par with that of Sri A.K. Singhal as per existing rules."

ii. Finance Authorities further letter dated 08.02.1993 :-

It may be seen from service book, of the junior & senior that both of these were drawing Rs. 425-700 scale in the grade of Supervisor 'A' (Technical). Hence the antedating may be granted w.e.f. 4/73 in terms of 2nd proviso to Rule-8 of CDS (RP) Rules, 1973. But this benefit can be given upto and



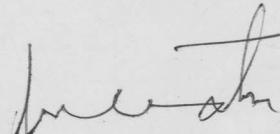
before the date of his promotion to the grade of Chargeman -I, as the senior opted directly under FR-22 (C), whereas the junior Opted under FR-22 (a) (1) and FR-22-C."

9. It would thus appear that the anomaly has arisen for the simple reason that the option for fixation of revised pay was exercised by the two officials differently. The applicant however, is saying that from the notification dated 24.12.1973 of the Ministry vide proviso to Rule 8 of CDS (RP) Rule 1973 it was possible to remove this anomaly by antedating. The relevant portion of the rule is as follows:

"Provided further that in cases other than those covered by the preceding proviso, the next increment of a Govt. Servant whose pay is fixed on the first day of January 1973, at the same stage in the existing scale shall be granted on the same date as admissible to the junior if the date of increment of the junior happens to be earlier."

10. Learned counsel for the applicant has also stated that the reason cited by the respondents that such stepping up is possible with reference to his junior only when both of them belong to the same cadre and scale of pay, and that in this case the junior did not belong to the same cadre, is not acceptable. He has stated categorically that at the time this anomaly occurred both of them were charge man Grade I.

11. From the submission made by the respondents it would appear that the stepping up by antedating as prayed for by the applicant is not impermissible under the rules. However, Govt. sanction is

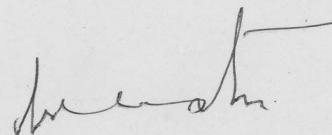


required for the purpose and so vide their letter dated 28.05.1996 they have expressed their inability to get the sanction as a single case for one individual cannot be taken for Govt. sanction.

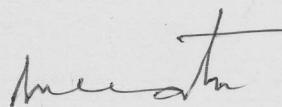
12. Thus in their own admission removal of the anomaly is not inadmissible as per rules. However, this being a lone case, the respondents were not in a position to help the applicant in any way. This is clear from the respondents' letter dated 28.05.1996 addressed to the applicant (Annexure A-5).

13. There is however, some contradiction between terms of this letter and the letter dated 30.05.1998 (Annexure A-7) in which it has been stated that such antedating does not come within the existing Govt. rules. Hence, it cannot be granted. There is obviously a difference between saying that such is inadmissible as per rules and that it is not totally inadmissible but a complex process is involved in getting it done.

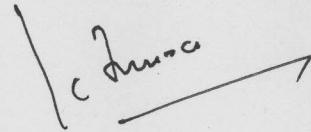
14. On the basis of aforementioned reasons we are of the view that the request of the applicant deserves to be reconsidered. If the respondents stated categorically that this would not be possible without amending the present rules it would have been otherwise. What was, however, communicated to

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the respondents creates an impression that the respondents did not consider it necessary to go through this motion for the sake of just one individual. The OA is therefore, allowed not precisely by granting the relief prayed for, but by directing that the respondents should consider the representation for stepping up/antedating with reference to the junior at the appropriate level of the Govt. If for that purpose it is required to take up the matter with other Ministries it should be done. After taking an appropriate decision in the matter as admissible under the present rules the decision should be communicated to the applicant through a reasoned and speaking order. This should be done within a period of four months from the date of receipt of certified copy of this order. No cost.



Member (A)



Vice-Chairman

/pc/