

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 125 OF 1988.

Decided on 30th June, 1989.

Krushna Chandra Jena,
Son of Sachindranath Jena
Senior Scientific Assistant
Amunition Wing, P & E.E.
Chandipur, Balasore.

.... Applicant

Versus

1. Union of India represented through the Scientific Adviser to the Ministry of Defence and Director General, Research and Development Organisation, New Delhi-110 011.
2. Controller of Accounts (FYS), 10-A Ayejkaabad Road, Calcutta-700 001.
3. Commandant, Proof and Experimental Establishment, Balasore- 756-025.
4. Director, A.R.D.E., Pashan, Pune-21.
5. Mrs. Lalita Gopal Krishnan, J.S.O., N.C.M.L., Bombay.

.... Respondents

For Applicant - Mr. B.K.Sahoo

For Respondents - Mr. T. Dalai, Additional Standing Counsel (Central).

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
 2. To be referred to the Reporters or not? ~~Yes~~ No
 3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.
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JUDGMENT.

B.R.PATEL, VICE-CHAIRMAN. In this application filed under section 19 of the Administrative Tribunals Act, 1985 the applicant has prayed for orders for stepping up of his pay to the pay level of his junior, respondent No.5.

2. The facts, briefly stated, are that the applicant joined his service as Junior Scientific Assistant (J.S.A.) Grade-II under the Proof and Experimental Establishment, Balasore with effect from 14.7.1970. He was promoted to the J.S.A. Grade I on 13.12.1971 and to the grade of Senior Scientific Assistant (S.S.A.) with effect from August, 1980 in pursuance of the recommendation of the Departmental Promotion Committee ^{which} met in March, 1980. On promotion, his pay was fixed at Rs.575/- in the pay scale of Rs.550-25-750-EB-30-900/- which was the pay attached to the post of Senior Scientific Assistant. The respondent No.5 was also appointed on regular basis to the grade of Senior Scientific Assistant along with the applicant in August, 1980. The applicant claims that he was senior to the respondent No.5 in the grade of S.S.A, but the respondent No.5 who is junior to him in this grade has been given the pay of Rs.625/- per month in the aforesaid scale, whereas the applicant on promotion has been given the pay of Rs.575/- per month. In view of this, the applicant has filed this application praying for stepping up of his pay to the level of his junior, the respondent No.5 in terms of the Office memorandum of the Ministry of Finance, Government of India No.F.2(78)-E.III(A)/66 dated 4.2.1966,

the summary of which has been given in paragraph (10) of the Fundamental Rule.22-C in the Swamy's Compilation of F.R.S.R. (Part-I General Rules) at page-75.

3. The respondents in their counter have maintained that the applicant was not entitled to the relief he has sought because the respondent No.5 was appointed earlier to the post of Senior Scientific Assistant with effect from 24.12.1976 vide Annexure-1. As she had long four years of experience as Senior Scientific Assistant, earlier than the applicant, her pay has been fixed at Rs.625/- after giving her four increments- one for each year of service rendered and there being no such contingency in the case of the applicant, he cannot be given four increments against the one as provided under F.R.22-C.

4. I have heard Mr. B.K.Sahoo, learned counsel for the applicant and Mr. T.Dalai, ^{learned} Additional Standing Counsel for the Central Government. Mr. Dalai has drawn my attention to Annexure-R/7 particularly to para-3 of it which reads as follows :

" 3. In view of the above stepping up of pay of Shri K.C.Jena, SSA with that of Smt.L.Gopalakrishnan does not arise in terms of M of D OM No.2 (24)/74/D (Civ-1) dt.27.9.74."

However, no copy of this letter is available on record to enable me to appreciate the view point. On the other hand, the Office Memorandum of the Ministry of Finance, Government of India bearing No.F.2 (78) -E.III (A)/66 dated 4.2.1966 reads as follows :

" Removal of anomaly by stepping up of pay of Senior on promotion drawing less pay than his junior.-

a) As a result of application of F.R.22-C.-

In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 1-4-1961 drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely :-

- (a) Both the junior and senior officers 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 they are entitled to draw pay should be identical;
- (c) The anomaly should be directly as a result of the application of F.R.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, the above provisions will not be invoked to step up the pay of the senior officer.

The orders refixing the pay of the senior officer in accordance with the above provisions shall be issued under F.R.27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of re-fixation of pay."

This case is fully covered by this Memorandum. Mr. Dalai has not been able to produce before me any orders/ instructions issued by the Government of India superseding this Office memorandum of the Ministry of Finance. In view of this, I am of the view that the applicant should get on promotion to the post of S.S.A., the same pay which has been given to the respondent No.5 Smt. Lalita Gopalakrishnan due to the fact that the applicant is admittedly senior to Smt. Gopalakrishnan, respondent No.5 in the grade of S.S.A. (vide Annexure-4).

5. Mr. Dalai has also drawn my attention to the fact that as has been mentioned in paragraph-4 of the counter affidavit, the applicant was junior to the respondent No.5 in the grade of Junior Scientific Assistant Grade II. I am not concerned with the inter se seniority in the Junior Scientific Assistant Grade II as there are two other grades above the Grade II of JSA, namely, JSA Grade I and the grade of Senior Scientific Assistant. As has been mentioned above, the Department has admitted the applicant to be senior to the respondent No.5 in Annexure-4 which is the letter issued by the Administrative Officer of the Proof & Experimental Establishment, Chandipore, Balasore to the Controller of Accounts (FYS) dated 19th November, 1986. In this letter it has been mentioned that in actual fact Sri K.C.Jena, SSA is senior to Smt.L.Gopalakrishnan, SSA. In this connection, a copy of the R&D.HQ.letter No.16328/R&D/Pers-1 dated 10.7.86 was enclosed to that letter, from which it can be seen that the seniority of Sri K.C.Jena, SSA has been fixed at Sl.No.157 and that of Smt.L.Gopalakrishnan

SSA was fixed at Sl.No.197. In view of this, I am of the opinion that there is no scope for any controversy so far as the inter se seniority between the applicant and the respondent No.5 is concerned.

6. In the result, the application is allowed, leaving the parties to bear their own costs.



[Handwritten Signature]
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VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
The 30th June, 1989/Jena/SPA