

(7) (111)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No.22 of 1988.

Date of decision : September 23, 1988.

Subhransu Kumar Mohanty, aged about 34 years,
son of Pratap Chandra Mohanty, at present working
as Upper Division Clerk, Circle Pairing Unit,
Office of the Postmaster General, Orissa Circle,
Bhubaneswar, Town- Bhubaneswar, Dist- Puri.

... Applicant.

Versus

1. Union of India, represented by the Secretary,
Posts, Dak Bhavan, New Delhi.
2. Director General, Posts, Parliament Street,
New Delhi.
3. Post Master General, Orissa Circle,
Town, P.O. Bhubaneswar, Dist- Puri.

.... Respondents.

M/s Devananda Misra, Deepak Misra,
R.N. Naik, R.N. Hota & Anil Deo,
Advocates.

... For Applicant.

Mr. A.B. Misra, Sr. Standing
Counsel (Central)

... For Respondents.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to
see the judgment ? Yes .
 2. To be referred to the Reporters or not ? No .
 3. Whether Their Lordships wish to see the fair
copy of the judgment ? Yes .
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J U D G M E N T

K.P. SACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to command the respondents to step up the pay of the applicant with effect from the date on which Sri R.K. Satpathy was given officiating promotion to the cadre of Upper Division Clerk i.e, in February, 1980.

2. Succinctly stated, the case of the petitioner is that at present he is working as Upper Division Clerk in the Circle Pairing Unit attached to the Office of the Post Master General, Orissa, Bhubaneswar. The petitioner joined as Lower Division Clerk on 8.11.1977 and one Sri R.K. Satpathy joined as such on 4.3.1978. In the cadre of Lower Division Clerk, the petitioner was placed against serial 16 and Sri Satpathy was placed against serial 20 in the gradation list. The petitioner was promoted on regular basis to the cadre of Upper Division Clerk in the year 1983 and Sri Satpathy was promoted on regular basis to the cadre of Upper Division Clerk in the year 1984 and in the gradation list pertaining to the Upper Division Clerks, the petitioner was placed against serial 16 and Sri Satpathy was placed against serial 27. At present the petitioner is drawing Rs.1320/- and Sri Satpathy is getting his pay at the rate of Rs.1350/- per month. These facts were undisputed before us. In view of the facts and circumstances, this application has been filed with the aforesaid prayer.

3. Even though the above mentioned facts were not disputed before us yet, on the basis of the counter

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submitted on behalf of the respondents, learned Sr. Standing Counsel for the Central Government contended that the petitioner is not entitled to a step up in the pay because Sri Satpathy was given promotion to the Upper Division Clerk cadre purely on officiating basis as a stop gap arrangement to fill up the post available at the station in which Sri Satpathy was posted. In this connection, F.R. 22C may be referred to and it also forms subject-matter of Annexure-R/6. It runs thus :-

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

(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 1.4.61 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; and
- (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 directedly 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 above provision clearly indicates that stepping up of the pay of a particular officer could be done with effect from the date of promotion or appointment of the junior officer if both the senior officers belong to the same cadre and the basis in which they have been promoted or appointed should be identical ^{it should be} and in the same cadre and further more the scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical. The undisputed position before us is that the junior officer Sri Satpathy was promoted on officiating basis to the cadre of Upper Division Clerk and was given an advance increment in the cadre of U.D.C. While this promotion took effect on officiating basis and thereafter on regular basis, the petitioner having been promoted to the cadre of Upper Division Clerk and admittedly being senior to Sri Satpathy, we are of opinion that the petitioner is entitled to the step up of his pay even according to F.R.22-C. Hence we would direct that the pay of the petitioner be re-fixed with step up in his pay vis-a-vis the pay of Sri Satpathy with effect from the date on which Sri Satpathy got promotion to the cadre of Upper Division Clerk.

4. Thus, the application stands allowed leaving the parties to bear their own costs.

B.R. PATEL, VICE CHAIRMAN,

Central Admn. Tribunal, Cuttack
Bench, Sept. 23, 1988/Roy, Sr. P.A.

I agree.

[Signature]
23-9-88
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Member (Judicial)
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[Signature] 23.9
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Vice Chairman.