

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.O.A. 1275 of 1996

Date of order : 7.12.2001

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman  
Hon'ble Mr. S. Biswas, Administrative Member

BISWANATH GHOSH DOSTIDAR & ORS.

VS.  
UNION OF INDIA & ORS.

For the applicants : Mr. S.K. Ghosh, counsel

For the respondents : Mr. B.K. Chatterjee, counsel

O R D E R

D.N. Chowdhury, V.C.

1. This is an application under Section 19 of the Administrative Tribunals Act, 1985 for stepping up of pay at par with the juniors. The applicants in this O.A. claim that the persons who are juniors to them are drawing higher pay than that of the applicants.

2. The respondent authorities have stated that the pay of the juniors to the applicants have been increased for grant of special pay. According to the respondents, the total pay of the persons who are junior to the applicants were raised as they were granted a special pay of Rs.35/- in the grade of U.D.C. which could not be granted to the applicants since they were promoted to the next higher post before introduction of the special pay of Rs.35/- in the grade of U.D.C.

3. We have heard the 1d. counsel for both sides and have perused the records.

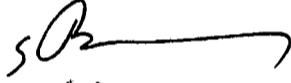
4. Admittedly the applicants were promoted to the higher post before introduction of the special pay of Rs.35/- in the grade of U.D.C.. Therefore, as per rules, these applicants cannot claim any special pay even on notional basis simply on the ground that their juniors were given that benefit. However, as far as the other points regarding stepping of pay is concerned, the matter is no longer res integra in view of the decision of the Hon'ble Apex Court reported in (1997) 3 Supreme Court Cases-176(Union of India & Ors. Vs. P. Jagdish and Others). The relevant part of the observations of the Hon'ble Supreme Court in Paragraph 7 of the order is reproduced below:-

"Admittedly the respondents had been promoted earlier to the category of Head Clerks and some of their juniors who were continuing as Senior Clerks against the identified posts carrying special pay of Rs.35/- per month on being promoted to the post of Head Clerks later than the respondents got their pay fixed at a higher level than the respondents. Under the provisions of Fundamental Rules to remove the anomaly of a government servant promoted or appointed to a higher post earlier 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 the higher post, the principle of stepping up of the pay is applied. In such cases the pay of the senior officer in the higher post is required to be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up is required to be done with effect from the date of promotion or appointment of the junior officer. On refixation of the pay of the senior officer by applying the principle of stepping up, the next increment of the said officer would be drawn on completion of the requisite qualifying service with effect from the date of refixation of the pay. This principle becomes applicable when the junior officer and the senior officer belong to the same category and the post from which they have been promoted and in the promoted cadre the junior officer on being promoted later than the senior officer gets a higher pay. This being the

principle of stepping up contained in the Fundamental Rules and admittedly the respondents being senior to several other senior clerks and the respondents having been promoted earlier than many of their juniors who were promoted later to the post of Head Clerks, the principle of stepping up should be made applicable to the respondents with effect from the date their juniors in the erstwhile cadre of Senior Clerks get promoted to the cadre of Head Clerks and their pay was fixed at a higher slab than that of the respondents. The stepping up should be done in such a way that the anomaly of juniors getting higher salary than the seniors in the promoted category of Head Clerk would be removed and the pay of the seniors like the respondents would be stepped up to a figure equal to the pay as fixed for their junior officer in the higher post of Head Clerk. In fact the Tribunal by the impugned order has directed to apply the principle of stepping up and we see no infirmity with the same direction subject to the aforesaid clarifications. This Principle of stepping up which we have upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reasons that the respondents had not worked in the post to which 35% special pay was attached in the lower cadre. But by reason of promotion the promotee-juniors who worked on the said posts, in fact performed the hard duties and earned special pay. Directions to pay the arrears would be deleterious to inculcation of efficiency in service. All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that would be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only prospectively from the date of promotion and the fixation of the scale, stepping up of the scale of pay would be prospective to calculate future increments on the scale of pay in the promotional post only prospectively."

5. In this case we find that the applications of the applicants regarding stepping up of their pay were forwarded to the Secretary, Ordnance Factory Board, Calcutta by the Works Manager/Admn. (for the General Manager) by a communication dated 20.2.96 whereby instructions were sought for passing necessary order. The 1d. counsel for the applicant, has also referred to a judgment passed by this Tribunal in a similar matter on 2.2.95 in O.A.No.303/1993 in which same benefit of stepping up of pay was granted to the applicants.

6. In these circumstances, we are of the opinion that this matter requires to be considered by the respondents in the light of the aforesaid decision of the Hon'ble Apex Court. Accordingly, we direct the respondent authorities to consider and dispose of the representations of the applicants which were forwarded to the Secretary, Ordnance Factory Board, Calcutta by the communication dated 20.2.96 as early as possible in the light of the observations made above as well as of the judgment of the Hon'ble Apex Court in the case of Union of India & Ors. Vs. P. Jagdish & Ors. as referred to above. With these observations, the application is disposed of. No order as to costs.

  
MEMBER(A)

S. M.

  
VICE-CHAIRMAN