

24/5/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

* * *

Date of Decision: 24-05-2002

OA 217/2001

Sunil Kumar Soni, Junior Engineer (Surveyor Assistant Gr.I) O/o Commander Works Engineer, Army, Jodhpur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, Hqrs. Southern Command, Pune.
3. Garrison Engineer (Air Force), Ratanada, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant ... Mr.B.Khan

For the Respondents ... Mr.Vinit Mathur

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

The applicant belongs to the cadre of Superintendent B/R Surveyor Assistants. He was initially appointed to the post of Superintendent B/R Gr.II in the pay scale of Rs.425-700/1400-2300 on 11.7.79. By order dated 12.10.87 he was promoted as Surveyor Assistant Gr.I (AS-I, for short) scale Rs.1640-2900 against direct recruitment quota from amongst serving employees and his pay was fixed accordingly under provisions of FR-22(1)(a)(i). This rule was earlier known as FR-22C. In pursuance of the judgement of CAT, Bangalore Bench, in a batch of OAs, the scheme of granting higher pay scales on the pattern followed for Junior Engineers of CPWD was introduced in the respondent department vide letter dated 26.4.96 (Ann.A/5). Under this scheme, two scales have been introduced in this

cadre. The SAs are placed in initial grade of Rs.1400-2300. On completion of five years service in the entry grade, they will be placed in the scale of Rs.1640-2900 subject to rejection of unfit. The scheme also provides that Supdts./SAs who could not be promoted to the post of Assistant Engineer/Junior Surveyor will be allowed the scale of Rs.2000-3500 on a personal basis after completion of 15 years of total service as Supdts./SAs. The orders regarding placement in scale Rs.1640-2900 after five years of service were made effective from 1.1.86 while those relating to personal promotion after 15 years of service were made effective from 1.1.91. Since the applicant had completed five years service as on 1.1.86, he was placed in the scale of Rs.1640-2900 from that date and further, on completion of 15 years of service he was placed in the scale of Rs.2000-3200 w.e.f. 10.7.94. His pay in these two grades has been fixed as per order dated 30.7.96 (Ann.A/1). The applicant has challenged his pay fixation under this order by filing this OA and the relief prayed for by him is stated in the following terms :


"That the impugned order dated 30.7.96, Annexure A/1, issued by the 3rd respondent, may be declared illegal and the same may be quashed. The respondents may be further directed to allow due fixation of pay on appointment to the post of SA-I under FR 22(I)(a)(1) from dated 1.10.87, keep the date of next increment of the applicant as July and the applicant allowed all consequential benefits."

2. When the matter was taken up for hearing, the learned counsel on either side only argued regarding pay fixation of the applicant as on 1.1.86. No arguments were advanced relating to the main relief prayed for by the applicant that he be allowed pay fixation on appointment to the post of SA-I w.e.f. 1.10.87 under FR-22(1)(a)(i) with all consequential benefits. The applicant had represented to the Chief Engineer vide letter dated 6.9.96 (Ann.A/6), wherein he has elaborated his own claim in respect



of pay fixation. On our seeking the clarification from the learned counsel on either side, it has come out clearly that claim of the applicant in respect of his pay fixation as SA-I is totally misplaced. After adoption of the scheme being followed in CPWD in pursuance of the orders of CAT, Bangalore Bench, there has been a revision in the structure of the cadre. The post of SA-I no more exists. Now there are only two grades of SAs; one is initial entry grade of Rs.1400-2300 and on five years of service the SAs are placed in the scale of Rs.1640-2900. It is clearly mischievous attempt on the part of the applicant to make a claim for his further placement in the scale Rs.1640-2900 w.e.f. 1.10.87, while he had already been placed in that grade w.e.f. 1.1.86. The learned counsel for the applicant, while admitting that the post of SA-I no more exists, only submitted that the pay of the applicant in the scale of Rs.1640-2900 has not been correctly fixed. This is because of the fact that the applicant was already drawing a pay of Rs.1640/- w.e.f. 1.7.85, when he came to be placed in the scale of Rs.1640-2900 w.e.f. 1.1.86. The scheme provides that this higher grade will not be treated as a promotional one but will be only non-functional and benefit of FR-22(1)(a)(i) will not be admissible while fixing in this grade as there will be no change in the duties and responsibilities. In this view, the learned counsel stated that the only anomaly which has occurred while fixing the pay of the applicant vide order dated 30.7.96 (Ann.A/1) is that while his pay as on 1.1.86 has been shown correctly but his next date of increment has been shown wrongly. His next date of increment has been shown to be 1.1.87 while, according to the learned counsel for the applicant, it should have been 1.7.86. In support of his contention he referred to the judgement of this Bench dated 31.8.2000 in OAs 184 & 310/98, in which similar controversy had come up for consideration.

3. We have considered the prayer of the applicant, arguments advanced on his behalf by the learned counsel Shri B.Khan and the submissions made by the learned counsel for the respondents Shri Vinit

Mathur.

4. The only issue which needs to be adjudicated upon is whether pay of the applicant on his being placed in the scale of Rs.1640-2900 w.e.f. 1.1.86 has been correctly worked out under orders dated 6.9.96 (Ann.A/6) and that whether his date of next increment has been indicated correctly. The pay fixation is governed by Fundamental Rules. In this case, FR 22(2) governs the pay fixation as on being placed in the scale of Rs.1640-2900 there is no change of duties and responsibilities. In such a case, he shall draw as initial pay, the stage of the time-scale which is equal to his pay in respect of the old post held by him on regular basis, or, if there is no such stage, the stage next above his pay in respect of the old post held by him on regular basis. The proviso to this rule states as follows :

"Provided further that in a case where pay is fixed at the same stage, he shall continue to draw that pay until such time as he would have received an increment in the time-scale of the old post" (emphasis supplied).

Obviously, while fixing pay of the applicant in the scale of Rs.1640-2900 as on 1.1.86, his date of next increment has not been shown correctly as the fact is that he was already drawing Rs.1640/- as on 1.7.85. Consequently, in the new scale of Rs.1640-2900 also his date of increment shall remain 1st July only i.e. his date of next increment has to be 1.7.86 and not 1.1.87 as has been shown in Ann.A/1. Correspondingly, his pay shall stand raised further only reckoning his date of increment as 1st July every year till he got promoted to the scale of Rs.2000-3500 as on 11.7.94. The OAs referred to by the learned counsel for the applicant have also been decided exactly on these lines.

5. In view of the discussions aforesaid, we do not see any merit in

the claim of the applicant for his pay fixation to the post of SA-I under FR-22(1)(a)(i) w.e.f. 1.10.87 and the same is dismissed. However, the respondents are directed to suitably correct the pay fixation issued under order dated 30.7.96 (Ann.A/1) by changing applicant's date of next increment from 1.1.87 to 1.7.86. His further pay shall be regulated only on this basis. The respondents shall comply with this order within a period of one month from the date of receipt of a certified copy of this order. No order as to costs.

(A.P.NAGRATH)

MEMBER (A)

(JUSTICE O.P.GARG)

VICE CHAIRMAN

28/5/2022
28/5/2022
Part II and III destroyed
in my presence on 13-3-07
under the supervision of
Section Officer (I) as per
order dated 14-3-2022
Section Officer (Record)

R/C
m/s/5
m/s