

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

C.A. No.

26/90

1990 (L)

File No.

1990 (TL)

Date of Decession

Tarman Ram & others

Petitioner.

Advocate for the  
Petitioner(s)

VERSUS

Union of India & another

Respondent.

Advocate for the  
Respondents

COURT

Hon'ble Mr. Justice V.C. Srivastava, V.

Hon'ble Mr. K. Obayya, A.M.

(Hon'ble Mr. K. Obayya, A.M.)

1. Whether Reporter of legal papers may be allowed to see the Judgment.
2. To be referred to the reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to other benches ?

Vice-Chairman / Member

J. K. Obayya

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

AS

.....

Original Application No. 26 of 1990 (L)

Jaman Ram & two others ..... Applicants

Versus

Union of India & others ..... Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, A.M.

( By Hon. Mr. K. Obayya, A.M. )

1. The applicants are Lower Selection Grade (LSG) Supervisors in P.M.G.'s Office Lucknow, and in this application they have prayed for a direction to the respondents to treat the applicants appointed to the identified posts of U.D.C.'s from the date of appointment of their juniors on the said posts and fix their pay in L.S.G. cadre accordingly and make payment of arrears of pay and allowances together with interest at 12% per annum.

2. The applicants who were permanent U.D.C's were appointed on ex-cadre tenure posts of Development Officer, Postal Life Insurance (DO, PLI) in the year 1982, and after completion of their tenure they reverted to their regular posts and were also given L.S.G. cadre and later they became Supervisors. According to the applicants while they were working on the tenure posts of D.O., P.L.I., 10% of U.D.C.'s posts were identified as posts carrying duties and responsibilities of special nature and special pay of Rs. 35/- and later Rs. 70/- was attached to these posts. Being senior the applicants were eligible for these posts, but they were not appointed as they were on tenure posts; though they were given L.S.G., on return from deputation, their pay was fixed at a lower level than their juniors. For instance the pay of applicant no. 1 was fixed on Rs. 1540/-

while his junior Shri Pancham Ram was getting Rs. 1580/- . Similarly the pay of applicant no. 2 was fixed Rs. 1600/- while his junior Mohd. Ali was getting Rs. 1640/- . The applicants made several representations in this regard but these were rejected on the ground that the posts of U.D.C.'s which carried special pay do not constitute promotional cadre and as such, no proforma fixation of pay is permissible. The applicants assail the rejection order as arbitrary, and it is their case that but for the deputation on tenure posts, they would have been ~~continued~~ as U.D.C.'s and drawn special ~~as~~ pay as was done by many of their colleagues including juniors

3. The respondents have opposed the case and in their return, It is pointed out that the posts of D.O., P.L.I. are ex-cadre tenure posts, filled up by deputation, through selection. The applicants applied for deputation and appeared at selection test in which they were successful; There after they were appointed as D.O., P.L.I. on scale of Rs. 1400-2300 , which is a higher scale than that of U.D.C. On reverstion to their posts as U.D.C. they were by virtue of seniority or otherwise in ~~reserved~~ quota promoted to L.S.G. cadre. Special pay attached to certain U.D.C. Posts is given only to those who occupy those posts and perform complex nature of duties. Appointment to these identified posts is by selection and suitability and not on seniority. It is also stated that the identified U.D.C. posts are not promotional posts and only such of the U.D.C.s who are suitable are selected and posted. The applicants were on higher posts drawing more salary and there is no special pay attached to the posts of D.O., P.L.I. as such no special pay was paid to them. Also since they did not work on identified U.D.C!spost they were not entitled for special pay; their ~~expenses~~

various representations were considered and the same were rejected as their claims were not admissible. It is also stated that the applicants never opted to get back to the regular line of U.D.C.'s to avail the benefit of special pay.

4. The question for consideration is whether the applicants were entitled to special pay attached to certain U.D.C.'s posts, notionally or otherwise and thereby carry the benefit for pay fixation in L.S.G. cadre. There are two aspects to this. Admittedly certain U.D.C.'s posts come to be identified as those with complex nature of duties, calling for higher degree of performance confidentiality etc; and these posts were filled up not on seniority but through selection and suitability; obviously under such a scheme of things, it is open to juniors also to get selected and appointed and get the financial benefit of special pay. Seniors who are bypassed cannot have a grouse against this arrangement for one reason, these identified posts are also posts of U.D.C. level only and not promotional posts or higher posts. Secondly the candidates assessed as better candidates and suitable in selection were appointed. In these circumstances the claim of the applicants for grant of special pay or benefit of the same in pay fixation in L.S.G. cadre, does not appear to be tenable; and their claim in this behalf has been rightly rejected by the administration.

5. But there is one more aspect to this, that is the applicants were entitled to not only seniority but also all the benefits that go with it in the U.D.C. cadre, this has been accepted by the respondents, and that is why they were also promoted to L.S.G. cadre and also as Supervisors. L.S.G. cadre has to be given on the basis of seniority, subject to fitness. If any juniors to the applicants were already in L.S.G. cadre, the applicants are certainly entitled for pay fixation equivalent to that of their juniors, as the applicants perhaps missed out the chance because they were on ex-cadre posts. The respondents

have not explained this position clearly. In the circumstances, we direct the respondents to consider the case of the applicants for pay fixation in L.S.G. cadre and place them at a level not below than that of juniors. This has nothing to do with those in whose case higher fixation of pay was the result and consequence of their working in identified U.D.C. posts carrying special pay. In other words applicants would be entitled for higher fixation pay in L.S.G. cadre only in the event of any of their juniors appointed to L.S.G. not through the route of U.D.C. (special pay) but in the regular way on the basis of seniority. Let this consideration be done and the differential amount if any paid to the applicants within a period of 3 months. If more junior to the applicants is drawing more salary in L.S.G. cadre the applicants have the case. The application is disposed of as above. No order as to costs.

  
A.M.

  
V.C.

Lucknow  
Dated : 15<sup>th</sup> March 1993

(g.s.)