

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 01.02.2000

OA No.572/95

Jagdish Narain Sharma S/o late Shri Nanu Ram Sharma, presently working as Clerk Grade-I, All India Radio, Civil Construction Wing, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Information and Broadcasting, Shastri Bhawan, New Delhi.
2. The Director General, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi.
3. The Station Director, All India Radio, Akashwani, M.I.Road, Jaipur.

.. Respondents

Mr. Surendra Singh, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

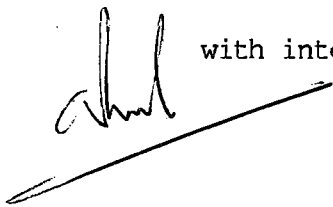
Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks following reliefs:

- (a) That it be declared that the applicant is legally entitled to get his pay stepped up equivalent to his junior Shri Sant Lal Rao with effect from 13th April 1988 at Rs. 1,290.00 with all the consequential benefits without any loss or break.
- (b) The respondents be directed to carry out the fixation with effect from 13th April 1988 and make the payment of arrears with interest @ 18% per annum.

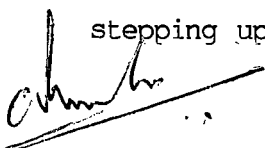


2. The case of the applicant, briefly stated, is that he is senior to one Shri Sant Lal Rao in the cadre of Clerk Grade II, who is at Sl.No.42 in the seniority list of Clerks Grade II (for short, CG-II) (Ann.A4) whereas the applicant himself is at Sl.No.26, yet Shri Sant Lal has been given promotion to the post of CG-I, albeit on ad hoc basis, much earlier than himself and his representation to step up his pay to the level of his junior has been turned down by the respondents vide impugned order dated 25.5.1995 (Ann.A1). His plea that since one of his colleagues Narendra Singh Rajput, who is at Sl.No.34, has also been given the benefit of stepping up following order dated 1.9.1994 of the CAT, Jodhpur in OA No.280/1992 and the same should also be extended to him has also been turned down by the same order dated 25.5.1995, he has filed the present OA.

3. In reply, the respondents have stated that the benefit of stepping up to a senior vis-a-vis his junior under FR/SR can be given only when anomaly is created by direct application of FR 22(C) [now FR 22(I)(a)(1)], there is no such anomaly in the present case. The pay of the junior Shri Sant Lal had become higher in the grade of CG-I on account of his having been promoted, purely on adhoc basis at Suratgarh and due to earning of increments, his pay had become higher than the applicant, no benefit of stepping up could be given.

4. We have heard the learned counsel for the parties and have also perused the material on record.

5. The learned counsel for the respondents has stated that this case is squarely covered by a number of orders of this Bench of the Tribunal, wherein basing their decisions on the recent judgments of the Apex Court, it has been held that if a junior happens to draw a higher pay on account of his fortitious local adhoc/officiating promotion, the benefit of stepping up cannot be claimed by the senior. This was not controverted by




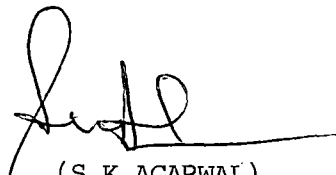
the opposite party.

6. On careful consideration of the contentions raised by both the parties, we are of the opinion that orders pronounced by this Bench of the Tribunal in a number of Original Applications, like the common order dated 3.12.1999 in OAs No. 577/95, 574/95, 86/1996, 576/95 and 575/95; order dated 3.12.1999 in OA No.315/1996 and order dated 4.1.2000 in OA No.161/1995 are directly applicable on the present case. The law in this regard has now been clearly settled by Hon'ble the Supreme Court in the cases of D.G.Employees State Insurance Corporation and anr. v. B.Raghava Shetty and Ors. reported in (1995) 30 ATC 313; Union of India and anr. v. R.Swaminathan and ors, reported in 1997 SCC (L&S) 1852 and Union of India and ors. v. M.Suryanarayana Rao, reported in (1998) 6 SCC 400 and we have decided the aforementioned OAs after a careful perusal of these judgments of the Apex Court.

7. We, however, would like to make an observation. The practice of giving local adhoc/officiating promotions to juniors when such promotions go for periods as long as three-four years, generates quite a bit of heart-burning amongst the seniors and a large number of OAs filed in various Benches of this Tribunal is only a manifestation of this. We would, therefore, like the respondent No.2 to consider issuing suitable guidelines to the effect that in case such a local vacancy is likely to exceed a certain period, say one year, options should be asked from all the senior officials for being considered for local adhoc/officiating promotion at the place where such local vacancy occurs and only when the seniors do not opt to go to such a place, the adhoc/officiating promotion should be given to a junior.

8. In view of the discussions in paragraphs 5 and 6 above, the Original Application does not stand and is accordingly dismissed with no order as to costs.


(N.P.NAWANI)
Adm. Member


(S.K.AGARWAL)
Judl.Member