

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 427 of 2004

Jabalpur, this the 16th day of December, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

S.V. Pillai, aged about 53 years,
S/o. Shri V.N.D. Pillai, Chargeman Grasde-II,
Air Armament Inspection Wing, Ordnance
Factory, Khamariya, R/o. 7/15, H-type
Khamariya, Jabalpur (MP). Applicant

(By Advocate – Shri S. Nagu)

V e r s u s

1. Union of India, through Secretary,
Department of Defence Production,
South Block, New Delhi.
2. Directorate General, Aeronatical
Quality Insurance, Ministry of Defence,
H-Block, New Delhi – 110011.
3. Account Officer (Fys),
Controller of Defence Accounts,
10-A, Oucaland Road,
Calcutta – 700 001. Respondents

(By Advocate – Shri P. Shankaran)

O R D E R (Oral)

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“10.1 quash the impugned order dated 16.4.2004 as been void and unlawful and arbitrary,

10.2 to direct the respondents to grant benefit of stepping up of pay of the applicant so that the anomaly having been cropped up at the time of promotion of the applicant on 30.6.94 on the post of Chargeman Grade-II (1400-40-1800-50-2300) is set right,



10.3 to declare that the action of the respondents in refusing to grant the benefit of stepping up of pay to the applicant in the given facts and circumstances of the case is unwarranted in the eyes of law,

10.4 to direct the respondents to grant the consequential benefits of arrears of pay arising out of the stepping up of his pay vis a vis the pay of his junior Shri G.R. Dohiya."

2. The brief facts of the case are that the applicant is presently holding the substantive post of Chargeman Grade-II under the respondent No. 2 and is presently posted in the Air Armament Inspection Wing at Ordnance Factory, Khamariya, Jabalpur. One Mr. G.R. Dohiya right from the stage of initial appointment till the last promotion in the grade of Chargeman-II was and is junior to the applicant which is evident from the extract of the seniority list of Chargeman-II published on 13.3.1997. The last promotion of the applicant as Chargeman-II was made with effect from 30.6.1994 as is evident from the order dated 8.7.1994. The applicant was correctly fixed at the stage of 1600/- with effect from 30.6.1994 in the scale of Rs. 1400-2300/. To the utter dismay of the applicant the said pay fixation which was rightly done was disturbed by order dated 21.10.1995, by fixing the applicant at the stage of Rs. 1530/- w.e.f. 30.6.1994 in the scale of Rs. 1400-2300/- instead of the earlier fixation at the stage of Rs. 1600/. He preferred a representation dated 26.4.1996 and 2.9.1997. The respondent No. 3 vide order dated 4.8.1994 justified the pay fixation of the applicant at the stage of Rs. 1560/- and also justified the pay fixation of the Shri G.R. Dohiya by extending a total untenable reason that Shri G.R. Dohiya had exercised his option but the applicant did not do so. The aforesaid decision was challenged by the applicant in OA No. 708/1998 which came to be decided by final order dated 7.11.2003 in which the Tribunal observed that the anomaly in the pay fixation in the case of the applicant should be set right under the relevant provisions and the respondents were directed accordingly. But the respondents rejected the request of the applicant for stepping up of the pay vide order dated 16.4.2004 (Annexure A-7). Hence, this Original Application is filed.



3. Heard the learned counsel for the parties and carefully perused the records and pleadings.

4. It is argued on behalf of the applicant that the Mr. G.R. Dohiya was junior to the applicant and both were promoted vide order dated 8.7.1994 with effect from 30.6.1994 (Annexure A-2) on the same pay scale of Rs. 1400-2300/- . But subsequently, vide impugned order dated 16th April, 2004 the respondents reduced the pay of the applicant on the ground of not exercising option by him and Mr. G.R. Dohiya had exercised the same. The impugned order is apparently illegal. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the applicant was promoted to the post of Chargeman Grade-II in the pre-revised pay scale of Rs. 1400-2300/- and was in receipt of pay of Rs. 1500/- per month at the time of his promotion. The respondents further argued that an employee on his promotion to the higher post has to give an option with regard to fixation of pay stating therein whether he wants his pay fixation from the date of promotion under FR 22(a)(1) or from the date of accrual of next increment in the lower grade under FR 22(C) i.e. now FR 22(1)(a)(1). In this case the applicant had opted for pay fixation from the date of his promotion i.e. w.e.f. 30.6.1994 itself. Mr. G.R. Dohiya (junior to the applicant) was also promoted to the post of Chargeman Grade-II by same DPC but he had exercised his option for fixation of his pay on promotion in the post of Chargeman Grade-II initially under FR 22(a) (1) with further to be re-fixed under FR 22(1)(a)(1) from the date of accrual of next increment in the lower grade. At the time of his promotion Mr. G.R. Dohiya was getting Rs. 1500/- per month and his increment was due on 1.7.1994 in the pay scale of Rs. 1320-2040/- of the lower post. Accordingly, his pay in the post of Chargeman Grade-II was initially fixed at Rs. 1520/- per month with effect from 29.6.1994 and subsequently re-fixed at Rs. 1600/- per month from 1.7.1994. It is clear from the above that both had exercised their

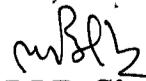


option in different manner. Hence, the impugned order is passed strictly in accordance with the rules and law. Accordingly, the Original Application is liable to be dismissed.

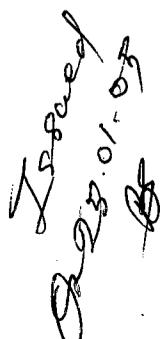
6. After hearing the learned counsel for the parties and on careful perusal of the records we find that the applicant and Shri G.R. Dohiya were promoted from the same date i.e. with effect from 30th June, 1994 on the same pay scale but the applicant had exercised his option for pay fixation from the date of his promotion w.e.f. 30.6.1994 itself, whereas Mr. G.R. Dohiya exercised his option for fixation of pay on promotion in the post of Chargeman Grade-II initially under FR 22(a)(1) with further to be re-fixed under FR 22(1)(a)(1) from the date of accrual of next increment in the lower grade. Accordingly, Mr. Dohiya's pay in the post of Chargeman Grade-II was initially fixed at Rs. 1520/- per month w.e.f. 29.6.1994 and subsequently re-fixed at Rs. 1600/- per month w.e.f. 1.7.1994. We have perused Annexure R-6 filed by the respondents and according to this it is apparently clear that Shri Dohiya, junior to the applicant was getting more pay than the applicant, before his promotion which fact is not controverted by the applicant by filing any rejoinder. The judgment of the present OA is based on the ground of the options exercised by the applicant and Mr. Dohiya and it is not the case of stepping up of pay. We have also perused the impugned order dated 16th April, 2004 (Annexure A-7) and the covering letter dated 17th April, 2004 thoroughly and we find that these orders are perfectly legal and in accordance with the rules and the respondents have not committed any irregularity or illegality in passing these orders.

7. Hence, this Original Application has no merits and is liable to be dismissed. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member
"SA"


(M.P. Singh)
Vice Chairman

प्रकाशक द्वारा अंकित
 प्रदित्त दिन १० अप्रैल २००५ जवलपुर, हर
 (१) सदित, उत्तर भारत राज्य विधान, उत्तरपुर
 (२) अवैराग्य श्री/महान्/महान्
 (३) प्रदर्शन श्री/महान्/महान्
 (४) अध्यक्ष, उत्तरपुर व्यवस्था
 सचना एवं आवश्यक कार्यालयी सेवा
 अप्रैल २००५ दिन
 दिनांक


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