

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

Original Application No. 423/2011

Order reserved on: 21/07/2015

Date of order: 23./07/2015

CORAM:

HON'BLE MR. JUSTICE HARUN UL RASHID, JUDICIAL MEMBER  
HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER

Santosh Kumar Rajput Son of Shri Ram Lal Singh Verma, aged around 47 years, Resident Jawahar Navodaya Vidyalaya, Purani Chhawani, Badi Road, Dholpur. Presently working as T.G.T. (Maths) J.N.V. Dholpur.

.....Applicant  
(Mr. Amit Mathur counsel for the applicant)

**VERSUS**

1. Union of India through Joint Commissioner, Navodaya Vidyalaya Samiti, New Delhi.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti Regional Office 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur.
3. Principal, Jawahar Navodaya Vidyalaya, Dholpur, Rajasthan.

.....Respondents  
(Mr. Hawa Singh counsel for the respondents.)

**ORDER**

(Per : Mr. R. Ramanujam, Administrative Member)

The applicant is aggrieved by Annexure-A/1 communication of respondent No.2 by which his representation for resolving the discrepancy in the pay fixation of his vis-à-vis

his junior has been turned down. The applicant's case is that he was initially appointed as a Trained Graduate Teacher (Maths) on 07/09/1993. He was entitled to the benefit of A.C.P. upgradation after completion of 12 years of service in the year 2005. One Shri Sanjay Sharma had also been appointed to the said post on 08/12/1993 and is therefore junior to him in the cadre.

2. The applicant had given an option for fixation of pay in the month of September 2005. Subsequently with introduction of Sixth Pay Commission scales the applicant's pay was fixed at 13580/- (Basic Pay) and 4800/- (Grade Pay). Earlier as per Annexure-A/2 order the applicant had been fixed in the basic pay of Rs. 7300/- as on 07/09/2005 whereas his junior Shri Sanjay Sharma was fixed at Rs. 7500/- w.e.f. 08/12/2005.. In the pay fixation order at Annexure-A/3, the pay of the applicant is shown as 13820/- on 01/07/2006 whereas Shri Sanjay Sharma had been fixed at 14520/-. The applicant claims that he is entitled to pay and allowances at par with his junior Shri Sanjay Sharma. The applicant's representation to resolve the discrepancy has not received the attention of the respondents.

3. The respondents have denied the allegation that any discrepancy has arisen on account of sixth pay commission scales. According to the respondents, the applicant was fixed at Rs. 7300/- in pay scale of Rs. 6500-200-10500 (pre-revised) w.e.f. 07/09/2005, with the date of next increment as

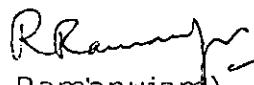
01/09/2006. As per records, on grant of senior scale to the applicant, he was given an opportunity to submit his option as provided in the rules and indicated in the order dated 10/02/2006 within one month from the date of issue of orders. The applicant submitted his option for fixation of his pay on grant of senior scale on 07/09/2005 i.e. from the date of grant of the senior scale. On the other hand, Shri Sanjay Sharma who was granted senior scale w.e.f. 08/12/2005 was fixed on the basis of the option exercised by him i.e. from the date of accrual of next annual increment in the lower scale i.e. 01/01/2006 and not from the date of grant of senior scale. Hence, it is apparent on the face of record that Shri Sanjay Sharma was not getting higher pay than the applicant, on 07/09/2005, but was getting a pay of Rs. 7500/- from 01/01/2006 only. The anomaly if any in the pay between the applicant and Shri Sanjay Sharma had arisen before 01/01/2006 due to the option exercised by the senior and the junior officers and not due to the implementation of the 5<sup>th</sup> pay or 6<sup>th</sup> pay commission scales. The claim of the applicant is therefore not tenable.

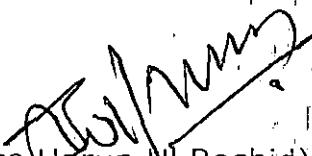
4. Heard the learned counsel for the parties. Learned counsel for the applicant argued that applicant being senior to Shri Sanjay Sharma, he cannot be fixed at a lower pay. Once it is noticed that a junior is getting higher pay, the respondents are duty bound to step-up the pay of the applicant on par with his junior. Learned counsel for the respondents reiterated their

contention that the discrepancy if any in pay fixation could not be traced to implementation of the 5<sup>th</sup> or 6<sup>th</sup> pay commission scales. Shri Sharma has been granted higher pay solely due to an intelligent exercise of option by him. If, the applicant is drawing a lower pay, he has only himself to blame as it was at his own option that he was fixed in the senior scale from the date of appointment itself.

5. We have carefully considered the rival contentions and perused the records. We are of the view that the claim of the applicant is not covered by the rules and instructions governing the matter of anomaly/discrepancy in pay between a senior and junior. The applicant has been fixed at a particular level in the senior scale on the basis of the option exercised by him and therefore he cannot now complain that the respondents have fixed his junior at a higher pay. We see no merit in the claim of the applicant.

6. O.A. is accordingly dismissed. No order as to costs.

  
(R. Ramaujam)  
Administrative Member

  
(Justice Harun ul Rashid)  
Judicial Member