

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 1511/2012

Reserved on: 6.04.2016  
Pronounced on: 28.04.2016

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. P.K. Basu, Member (A)**

1. Smt. Urmil Devi, (Assistant)  
Director Work Charge Establishment  
DDA, New Delhi  
Aged about 54 years  
W/o Shri Jay Ram Singh  
R/o 2<sup>nd</sup> B-129, Vaishali, Ghaziabad
2. Smt. Vimla Devi, (Assistant Chief Engineer)  
Director Work Charge Establishment  
DDA, New Delhi  
Aged about 54 years  
W/o Shri D.C. Ajad  
R/o 4/268, Vaishali, Ghaziabad ... Applicants

(Through Shri Malaya Chand, Advocate)

Versus

1. Delhi Development Authority  
Through its Vice Chairman  
Vikas Sadan, INA,  
Delhi
2. Smt. Ranju Bahal (UDC),  
DDA, New Delhi  
Office of Director (Work Charge)  
Establishment, 13<sup>th</sup> Floor, Vikas Minar,  
I.T.O., New Delhi ... Respondents

(Through Shri Akshay Bhardwaj for Shri Manish Garg, Advocate)

ORDERMr. P.K. Basu, Member (A)

The applicants were appointed as Lower Division Clerk (LDC) by respondent no.1 on 18.12.1984 and 20.12.1984 respectively in the pay scale of Rs. 260-400 (pre-revised). They were promoted as Upper Division Clerk (UDC) on 4.05.1994 and 20.04.1995 in the pay scale of Rs.1200-2040. They were further promoted as Assistants in the pre-revised pay scale of Rs.6500-10500 (revised Pay Band of Rs.9300-34800 with Grade Pay of Rs.4600/-) vide order dated 20.12.2010 (Annexure A-2). In this order, the applicant no.1 is at serial 117 with seniority no.1939 and applicant no.2 is at serial 108 with seniority no.1875. It is stated by the applicants that their basic pay and Grade Pay is Rs.12240/- and Rs.4600/- respectively as per pay slip of March 2012 (Annexure A-3).

2. This OA has been filed because the applicants are aggrieved by the fact that their junior Smt. Ranju Bahal, who is still working as UDC and is below them in seniority at serial 2181 is drawing basic pay of Rs.16820/- as per pay slip of March 2012 (Annexure A-5). As a result, though the applicants are on a higher post of Assistant and are senior to Smt. Ranju Bahal, they are drawing a lesser pay. The OA has, therefore, been filed seeking the following reliefs:

- (i) To pass an order for grant of Higher Pay Scale and at par with all other Asst. working in DDA.

(ii) To pass an order to pay the arrears to applicants along with interest at the rate of 12.5 p.a.

3. It is stated by the applicants that Smt. Bahal, UDC was granted upgradation of pay scale from Rs.5500-175-9000 to Rs.6500-200-10500 with effect from 15.10.2006 vide EO No.149 dated 20.11.2007 whereas the applicants were given pay scale of Rs.6500-10500 (revised pay band of Rs.9300-34800) on getting promotion as Assistant with effect from 20.12.2010.

4. It has been further stated by the applicants that the pay of Smt. Ranju Bahal, UDC was again refixed in the pay scale of Rs.7450-225-11500 (pre-revised scale of Rs.9300-34800) vide EO No.120 dated 22.09.2010.

5. The applicants also state that it is not understood why the respondents first granted the pay scale of Rs.5500-9000, Rs.6500-10500 and then Rs.7450-11500 with effect from 5.10.2006 to Smt. Ranju Bahal UDC and though they are senior to her, have not been given such pay scale with effect from 5.10.2006.

6. The applicants claim that they are entitled for the pay scale of Rs.5500-9000, Rs.6500-10500 and then Rs.7450-11500 with effect from 5.10.2006 as has been granted to Smt. Ranju Bahal along with arrears of pay and interest thereon at the rate of 12-1/2%. They rely on judgment of the Tribunal in OA 657/2012 with connected OAs dated 10.01.2013, **Uttam Singh and others Vs. Govt. of NCT of Delhi and others.** The

applicants in those OAs were Post Graduate Teachers (PGTs) and Trained Graduate Teachers (TGTs) and they had sought refixation of pay. The main issue there was that the applicants were appointed prior to 1.01.2006 and their pay in the 6<sup>th</sup> CPC scales was to be fixed under Rule 7 (1) (A) (i) which stipulated that the pre-revised pay has to be multiplied by the factor of 1.86 to determine the new basic pay in the new pay scales. However, if the pay thus arrived at was less than the minimum of the revised pay scale, then they shall be fixed at the minimum of the revised pay scale. The anomaly that arose was because of the fact that direct recruits appointed on or after 1.01.2006 were granted the basic pay higher than that it was fixed for seniors appointed prior to 1.01.2006. Though the Tribunal observed that the pay of the applicants was rightly fixed under Rule 7 (1) (A) (i) and (ii), it held that stepping up of pay of the seniors would be considered under FR-27 (perhaps this has wrongly been mentioned as FR-27 and should be FR-22). The applicants, therefore, state that being senior to Smt. Ranju Bahal, they should get the same benefit of stepping up of pay as has been allowed in Uttam Singh (supra).

7. In their reply, the respondents have traced the service history of Smt. Ranju Bahal vis-à-vis one of the applicants Smt. Urmil Devi, which is reproduced below:

Smt. Ranju Bahal		Smt. Urmil Devi, Asstt.	
1.	She was working initially as LDC on contract basis since 1979.	1.	She was initially engaged in DDA on contract basis in the year January 1981

2.	She was appointed as UDC through departmental test on 5.10.1982.	2.	She was appointed as LDC on 13.12.1984 and she joined on 20.12.1984, as per her consent as the contract was on conclusion for the prospective Plan Delhi 2001. Hence she was not through departmental test
3.	She got the EB crossed increment w.e.f. 1.10.1992 vide E.O. No.3740 dated 16.11.1992	3.	She got the EB crossed increment w.e.f. 1.12.1994 vide E.O. No.1324 dated 3.04.1995.
4.	She was promoted as UDC vide E.O. No.385 dated 28.3.2000.	4.	She passed the type test on 27.08.1993 and notionally promoted as UDC on 20.04.1998 with effect from 20.04.1995 when her junior Shri Mahi Pal Singh was promoted as UDC
5.	On completion of 24 years period of service, she was granted 2 <sup>nd</sup> ACP w.e.f. 5.10.2006 vide E.O. No.374 dated 20.03.2007	5.	On completion of 24 years period of service she was granted 2 <sup>nd</sup> ACP w.e.f. 20.12.2008 vide E.O. No.468 dated 13.02.2009.
6.	Accordingly, as per the grant of 2 <sup>nd</sup> ACP benefits her pay was upgraded from Rs.5500/- to Rs.6500/- in November 2007	6.	Accordingly, as per the grant of 2 <sup>nd</sup> ACP benefits her pay was upgraded after 20.12.2008.

8. According to the respondents, a perusal of the above table would indicate that Smt. Ranju Bahal had joined as LDC before the applicants. When the Assured Career Progression Scheme (ACPS) was introduced by the DDA on 14.10.1999, she was granted the second ACP from 2006 according to her length of service whereas the applicants got it from 2008 having joined 2 years later as LDC. Secondly, the applicants before completion of 12 years got their promotion as UDC and, therefore, they did not get the benefit of first ACP but only the benefit of second ACP.

9. It is further clarified by the respondents that Modified Assured Career Progression Scheme (MACPS) came into effect

from 1.09.2008 and thus the benefits of MACPS have been allowed with effect from 1.09.2008 vide Department of Personnel and Training OM dated 19.05.2009 and the benefits of ACPS have been discontinued after 31.08.2008. Hence the benefits of ACPS allowed/ granted after 31.08.2008 to the government servants would be withdrawn immediately. Therefore, since the second ACP was given to the applicants with effect from 20.12.2008 i.e. beyond 31.08.2008, the earlier ACP benefit was granted only till 31.08.2008.

10. In short, the case of the respondents is that this is not a matter which is covered under FR 22 dealing with stepping up of pay as the ingredients of that are not satisfied. The following ingredients which would make an officer eligible to claim stepping up are not satisfied in this case:

1. Both the junior and senior should belong to the same cadre and the post to which they have been appointed or promoted should be identical in the same cadre;
2. The scale of the Pay of the lower and higher posts in which the junior and senior are entitled to draw pay should be identical; and
3. The anomaly should be directly as a result of the application of FR 22 (1) (a) (1). For example, if even in the lower post the junior official draws from time to time to a higher rate of pay then the senior by virtue of grant of advance increments or on any other accounts the above provisions will be invoked to step up the pay of the seniors.

11. The respondents state that Smt. Ranju Bahal had joined earlier as LDC and hence was senior but the applicants got promoted as UDC first and thereafter as Assistant vis-à-vis Smt. Bahal. Smt. Bahal got promotion as UDC but did not get promotion as Assistant. Her pay was upgraded under ACPS depending on her length of service, which was more than the length of service of the applicants. Therefore, the respondents contend that the cases are not comparable and are not covered by the rules of stepping up of pay and in such a situation where employees have longer length of service, it is quite likely that they would get higher salary though not the pay scale.

12. Learned counsel for the respondents also cited the following judgments in their support:

- (i) OA 2647/2011, **Kishan Dev Mishra Vs. Delhi Transport Corporation** – In this case the claim of the applicant was to protect his pay against his juniors. The Tribunal, however, did not go into the merits of the case and dismissed the OA as barred by limitation.
- (ii) OA 3240/2010, **Ram Avtar Vs. Delhi Transport Corporation** - We do not think this case is relevant here as the issue is completely different.
- (iii) OA 744/2011, **Shri Govind Singh Vs. The Govt. of NCT of Delhi and others** – Here again the issue was different and does not merit any consideration.

13. We have heard the learned counsel for the parties and gone through the pleadings available on record as well as written submissions filed by the respondents.

14. Admittedly, Smt. Ranju Bahal had joined as LDC almost two years before the applicants. Unfortunately, her promotion as UDC got delayed and she did not get promotion as Assistant. The applicants, on the other hand, got promotion as UDC as well as Assistant. When the pay was fixed, the pay of the junior Smt. Ranju Bahal worked out to be higher for reasons that we have already discussed above in detail in this order. From the facts of the case it is also clear that the rules regarding stepping up of pay are not attracted in this particular case. This is a case where the employee, by sheer length of service, is drawing higher salary than those who were junior to her initially but superseded her in promotion to higher posts.

15. In this view of the matter, the OA lacks merit and is dismissed. No costs.

( P.K. Basu )  
Member (A)

( Permod Kohli )  
Chairman

/dkm/