

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 3770/2014

Reserved on : 06.01.2016

Pronounced on : 27.01.2016

**HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN
HON'BLE MR. P.K. BASU, MEMBER (A)**

Urmila Jain,
Scientist-G (Retired),
W/o Shri Suresh Chandra Jain,
R/o B-173, SFS, Sheikh Sarai,
Phase-1, New Dehi-110017.

Posted at :
NIC H.Q., CGO Complex,
New Delhi.

.. Applicant

(By Advocate : Shri R.K. Kapoor)

Versus

1. Union of India through
The Secretary,
Department of Electronics and
Information Technology (Deity),
Ministry of Communications
& Information Technology,
Govt. of India, Electronics Niketan,
6, CGO Complex, Lodhi Road,
New Delhi.
2. The Director General,
National Informatics Centre,
Department of Electronics and
Information Technology,
Govt. of India,
A Block, CGO Complex,
Lodhi Road, New Delhi.

3. The Secretary,
Ministry of Personnel, Public Grievances & Pensions,
(Department of Personnel & Training),
Govt. of India,
New Delhi. .. Respondents

(By Advocate : Shri Subhash Gosai)

ORDER

By Hon'ble Mr. P.K. Basu

The applicant retired as Scientist-G from National Informatics Centre (Respondent No.2). Her grievance is that her junior, one Shri A.K. Jain, is drawing higher pay than her and has, therefore, sought stepping up of her pay at par with her junior, Shri A.K. Jain.

2. The applicant had earlier pointed out to the respondents that after the 6th Central Pay Commission recommendations, her pay had been fixed lower than one Dr. J.K. Ghosh, who was seven years junior to her. The respondents vide order dated 25.07.2012 stepped up her pay at par with Dr. J.K. Ghosh in the grade of Scientist-F w.e.f. 01.07.2008 on the ground that a senior's salary cannot be less than his/her junior. Later on, she detected that Shri A.K. Jain, who was also junior to her, was drawing higher pay and represented that her pay should be protected vis-à-vis Shri A.K. Jain. However, the respondents issued a letter dated 10.07.2014 rejecting her claim saying that stepping up of pay for the second time may be allowed to that junior at par with whom the pay of the

first was stepped up. Being aggrieved, this O.A. has been filed seeking the following relief(s):

- “(a) allow the Original Application and quash and set aside the impugned order dated 10-07-2014 passed by the National Informatics Centre, and restore the Order dated 22-05-2014 passed by the National Informatics Centre whereby the applicant’s pay was stepped up at par with her junior Shri A.K. Jain w.e.f. 11-09-2006;
- (b) direct the respondents to grant all consequential benefits from the date the applicant’s pay was ordered to be stepped at par with her junior Shri A.K. Jain w.e.f. 11-09-2006;
- (c) any other relief/order which this Hon’ble Tribunal deems fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant and against the respondents;
- (d) award costs of the proceedings.”

3. The learned counsel for the applicant states that initially vide order dated 26.12.2012 and subsequently dated 22.05.2014, the respondents had stepped up the pay of the applicant vis-à-vis Shri A.K. Jain and granted the pay protection but, later on, this was withdrawn thus contending that the respondents had accepted the anomaly and granted the benefit which was later withdrawn incorrectly.

4. The reply of the respondents is that the concept of seniority etc. do not exist in the S&T cadre under Flexible Complementing Scheme because it is performance/merit oriented and the

promotions can be effected even if no vacancy exists in the higher grade. It is categorically stated that no seniority list is maintained in S&T cadre. Therefore, immediate junior and senior cannot be identified. Hence, the claim of the applicant to protect her pay against her junior does not arise according to the respondents.

5. We had directed the respondents to file the comparative statement of pay fixation of Shri A.K. Jain and the applicant, Smt. Urmila Jain, which has been filed as Annexure-AR/1 along with the affidavit dated 18.12.2015 by the respondents. It would be seen from this statement that upto 01.07.2006, the applicant was drawing higher pay as compared to Shri A.K. Jain. It may be noted that at that point of time, the applicant was already a Scientist-F w.e.f. 01.01.2001 whereas Shri A.K. Jain was still Scientist/Engineer Grade-SF. However, on 11.09.2006, Shri A.K. Jain was promoted as Scientist-F and his pay was fixed at Rs.55470/- whereas as on that date, the applicant's pay was lesser at Rs.53860/-. This is the point the perceived anomaly starts.

6. It would be seen that Shri A.K. Jain joined the respondents way back on 30.09.1977 as Statistical Assistant Grade-II and thereafter got several promotions to reach the level of Scientist/Engineer Grade-SE on 01.01.1990. The applicant joined the respondents on 22.03.1990, for the first time, as

Scientist/Engineer Grade-SE. Thereafter, the applicant got her promotion as Scientist/Engineer Grade-SF on 11.10.1994 and Shri A.K. Jain got it later on 02.11.1995, followed by promotion of the applicant as Scientist-F on 01.01.2001 and promotion of Shri A.K. Jain as Scientist-F on 11.09.2006. Though neither side could explain but what is obvious is that Shri A.K. Jain has been in the service of the respondents for a much longer period and, therefore, pay fixation as such can result in higher pay fixation for Shri A.K. Jain because of his length of service. However, this is not clear at all from the facts presented before us and neither it is possible for this Tribunal to get into the nitty- gritty of the pay fixation. The respondents have to explain to the applicant, through an appropriate reasoned and speaking order, the reasons why on 11.09.2006 the pay of Shri A.K. Jain has been fixed as Rs.55470/-, which is higher than what the applicant was drawing on that date, i.e. Rs.53860/-. As we have stated earlier, this situation may arise even due to the different length of service but it has to be clearly stated through a reasoned order.

7. We, therefore, dispose of this O.A. with a direction to the respondents to pass a speaking and reasoned order explaining the difference in pay fixation between Shri A.K. Jain and the applicant, Mrs. Urmila Jain as on 11.09.2006, within a period of two months from the date of receipt of a copy of this order. In case, the

applicant is still aggrieved by such an order, she shall be at liberty to approach this Tribunal questioning the same.

8. With the above direction, the O.A. stands disposed of. No costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/Jyoti/