

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.202/00564/2016

Jabalpur, this Tuesday, the 2nd day of January, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Pramod Kumar Shrivastava, S/o Late Shri Ram Nath Shrivastava,
Age 68 years, Occupation Retired Sr. Audit Officer, Resident of
Flat-No.C-307 Bhau Saheb Potnis Enclave Behind MITS,
Gole Ka Mandir Gwalior 474005 M.P. **-Applicant**

(By Advocate – Shri S.C. Sharma)

V e r s u s

1. Union of India through Comptroller & Auditor General of India
9, Deen Dayal Upadhyaya Marg, New Delhi – 110124.

2. Principal Accountant General (GSSA), Audit Bhawan,
Gwalior – 474002 (M.P.) **-Respondents**

(By Advocate – Shri M.K. Sharma)

(Date of reserving order: 12.10.2017)

ORDER

By Navin Tandon, AM.

The applicant has filed this Original Application for stepping up of his pay at par with his junior Shri Shiv Singh Rathore. The respondents have denied him the said benefit on the ground that earlier his pay was stepped up at par his another junior Shri R.C.Kulshreshtha and he is not still entitled for stepping up of his pay for the second time.

2. The brief admitted facts of the case are that the applicant joined on the post of Upper Division Clerk and passed departmental confirmatory examination on 12.11.1970. His pay was fixed at the stage of Rs.150/- on account of passing the departmental confirmatory examination in the pay scale of Rs.130-300. That the pay scale of Rs.130-300 was revised with effect from 01.01.1973 to Rs.330-560 and the pay of the applicant was fixed at the stage of Rs.340/- in the revised pay scale of Rs.330-560 with effect from 01.01.1973. He submitted an application dated 06.09.2013 requesting to remove anomaly with respect to his junior Shri R.C.Kulshreshtha with effect from 23.05.1973 by raising his pay at the stage of Rs.370/-. Accordingly, his pay was fixed at the stage of Rs.370/- as on 23.05.1973 with date of next increment 01.05.1974 vide order dated 20.05.2014. Subsequently, the applicant came to know that pay of another junior Shri Shiv Singh Rathore to the applicant but senior to Shri R.C.Kulshreshtha has been stepped up with reference to pay of his junior Shri U.S.Bhadauria at a stage of Rs.380/- as on 31.05.1973 with DNI on 01.05.1974. Therefore, the applicant submitted a representation on 25.05.2015. However, vide impugned order dated 22.6.2015 (Annexure A-3) he was informed that the pay of those Auditors who had passed the departmental confirmatory examination in

between 01.01.1973 and 31.05.1981 was to be fixed at the stage of Rs.370/- in terms of Headquarters' circular dated 17.01.2012 and that since the applicant had passed the said examination on 12.11.1970, no action can be taken in his case. Thereafter, the applicant again submitted a representation on 10.07.2015 (Annexure A-4) requesting the respondents to fix his pay at the stage of Rs.370/- as on 01.01.1973 in the pay scale of Rs.330-560 with date of next increment on 31.05.1973 at par with his junior Shri Shiv Singh Rathore. However, vide impugned order dated 03.11.2015 (Annexure A-10), the respondents again turned down his representation.

3. Therefore, in this Original Application, the applicant has prayed for the following reliefs:

“8.(A) The orders passed by the Respondents in Annexure A/3 and Annexure A/10 may kindly be quashed.

(B) The respondents may kindly be directed to raise the pay of the applicant to the stage of Rs.370/- as on 1-1-1973 in the pay scale of Rs.330-560 in view of Para 3(i) of C&AG's circular dated 17-1-2012 which has been issued in compliance of the directions of Hon'ble C.A.T. Chennai and confirmed by the Hon'ble Supreme Court of India.

(C) The respondents may also please be directed to step up the pay of the applicant equal to the pay of his juniors as on 31-5-1973 at the stage of Rs.380/- in the pay scale of Rs.330-560 under FR 27 with date of Next increment on 1-1-1974 and to regulate the pay of applicant on actual basis accordingly up to the date of his retirement, and to pay the

arrears of pay and allowances with all consequential benefits.

(D) The respondents may also please be directed to revise the Pension, D.C.R.G., Leave encashment and also other admissible retiral benefits accordingly and to pay the arrears thereof.

(E) Respondents may also please be directed to pay interest @ 18 percent on the amount of arrears of pay and allowances and also on the arrears of Pension, DCRG Etc. from 28-7-2014 (Date of order of stepping up of pay of Junior Shri Shiv Singh Rathore) to the date of making payment of all arrears to the applicant.

(F) Cost of O.A. Rs.10,000/- may be awarded.

(G) Any other relief which this Hon'ble Tribunal may deem fit in the interest of justice may be awarded.”

4. On the other hand the respondents have submitted that in para 13(b) of their reply that the pay of the applicant can not be stepped up with respect to Shri Shiv Singh Rathore because as per clarification below Govt.of India DP&AR OM No.F-4/7/83-Estt (P-I) dated 31.03.1984 (Annexure R-8) the benefit of stepping up of pay can be allowed to a senior official, second time, provided the anomaly has arisen with reference to the pay of the same junior, with reference to whom the pay of senior was stepped up first time.

5. During the course of arguments the applicant has placed reliance on a decision of Bombay Bench of this Tribunal in the

matters of **T.P.Shyamalan Vs. Union of India and others**, (1995) 31 ATC 301 wherein it has been held that claim for second stepping up of pay is tenable as long as the conditions laid down in FR 22-C were fulfilled. He has contended that his case is fully governed by the said decision.

6. Heard the applicant in person and the learned counsel for the respondents and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. The short issue involved in this Original Application is whether the applicant, whose pay was initially stepped up at par with his junior Shri R.C.Kulshreshtha, is still entitled for stepping up of his pay second time at par with his another junior Shri Shiv Singh Rathore.

8. A coordinate Bench of this Tribunal in the matter of **T.P.Shyamalan** (supra) has already held that claim for second stepping up of pay is tenable as long as the conditions laid down in FR 22-C were fulfilled. Relevant extract of the said order read thus:

“We are therefore of the view that so long as the applicant is able to show that he is fulfilling the conditions laid down in FR 22-C vis-à-vis an employee giving rise to an anomalous situation he is entitled to have his pay stepped up for the second time irrespective of whatever is stated in OM dated 31-3-1984 so long as the three conditions set out in FR 22-C are fulfilled”.

9. On perusal of the impugned orders passed by the respondents on the representations submitted by the applicant, we find that the respondents have not decided the representations of the applicant dealing with the above issue, though the applicant has specifically sought for fixation of his pay at par with his junior Shri Shiv Singh Rathore.

10. Accordingly, this Original Application is allowed. The impugned orders are quashed and set aside. The respondents are directed to consider the claim of the applicant for fixation of his pay at par with his junior Shri Shiv Singh Rathore, and if the conditions laid down in FR 22-C for stepping up of pay at par with junior are fulfilled, the respondents are directed to grant the applicant all the consequential benefits. However, the applicant shall not be entitled for any interest on the amount found payable to him. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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