

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01273/2016

Dated Monday the 17th day of June Two Thousand Nineteen

**CORAM: HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

S.Sampath Kumaran,
Assistant Accounts Officer (Retd),
No. 780-J, North Avenue,
T.N.H.B. Colony,
Korattur, Chennai 600080.

....Applicant

By Advocate M/s. S. Retnaswamy

Vs

1.Union of India rep by
Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhavan,
7th Floor, Khan Market,
New Delhi 110003.

2.Controller of Accounts,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi 110011.

3.Pay & Accounts Officer,
CPWD, Ministry of Urban Development,
Rajaji Bhavan,
Chennai 600090.

....Respondents

By Advocate Mr. C. Kulanthaivel

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following reliefs :

"i. To quash the first respondent's OM No. A.11019/20/Misc/2009/MF.CGA(A)/NG/Vol.III/222 dated 29.08.2014 and direct the respondents to grant stepping up of the applicant's pay to Rs. 370/- with effect from 24.05.1973 along with arrears, revision of retirement benefits and all other consequential benefits.

ii. Cost of this application along with interest.

iii. And pass such further order or orders as this Hon'ble Tribunal deemed it fit and proper in the circumstances of the case and thus render justice."

2. The case of the applicant is that as he was promoted as UDC in the respondent department from the post of LDC on 01.11.1969, he was entitled to refixation of his pay subsequent to the implementation of the 3rd Pay Commission recommendations which provided for grant of four advance increments for passing a Departmental Confirmatory Test (DCT). Whereas the applicant was granted four advanced increments at the rate of Rs. 5/- in the then existing pay scale for UDC on 11.11.1970, his junior one Shri. K.P. Vijayakumar who had been appointed as UDC as a direct recruit on 21.04.1972 had been granted four advance increments at the rate of Rs. 10/-. This resulted in an anomalous situation where the applicant who was not only senior but had also put in longer service than the said Vijayakumar was being paid less than the latter. The applicant made a representation for grant of increments @ Rs. 10/- which was not acceded to.

3. Learned counsel for the applicant alleges that similarly placed persons in the Indian Audit & Accounts Department (IA & AD) were granted stepping up of pay on par with the junior and such benefit could not be denied to the applicant. Attention is drawn to Annexure A3 office memorandum of the 1st respondent dt. 15/22.07.2013 in which it is stated that it had been decided to extend the benefit of four advance increments to Junior Accountants/Auditors of CCAS cadre who had passed Departmental Confirmatory Test during the period 01.01.1973 to 31.05.1981 on the same terms & conditions as in the case of IA & AD subject to the condition that they were exactly similar to their counterpart in the IA & AD in all aspects of service conditions. It shall be admissible from the date following the last date of examination in which the candidate had been declared successful. Further, the benefit of four advanced increments to the eligible serving/retired personnel of CCAS was to be given on actual basis. In the case of retired persons, the pensionary benefits would also be revised taking into consideration the pay refixed after the granting of pay refixed.

4. Learned counsel for the applicant would contend that if four advance increments could be granted to persons in the respondents' department for passing the DCT between 01.01.1973 and 31.05.1981, there was no reason for the applicant to be treated differently from similarly placed persons in IA & AD who had been allowed stepping up of pay consequent to such grant of advanced increments at a higher rate to the juniors. He would further draw attention to the

RTI information provided to the applicant at Annexure A6 dt. 14.11.2014 in which it has been stated that the anomaly in the pay of seniors in the cadre of Auditor with respect to such juniors who had passed DCT in the period of 01.01.1973 to 31.05.1981 was being rectified by stepping up their pay on par with respective juniors in terms of the provisions under FR 22. No separate order had been issued by the office to rectify such anomaly. It is accordingly submitted that the applicant was entitled to be treated on par with such seniors who worked in the IA & AD.

5. Counsel for respondents would, however, draw attention to the tabular statement contained in the reply filed by the respondents which clearly brought out how the differential had arisen in case of the applicant *vis a vis* the said Vijayakumar. It is submitted that while the applicant was treated on par with the juniors for the purpose of grant of four advance increments notwithstanding the fact that he had passed the DCT before 01.01.1973, he could not be granted the increments at the rate at which the juniors had been granted after 01.01.1973 as the rate applicable on the date of passing of DCT by the applicant was Rs. 5/- only. The applicant had been treated on par with his juniors for the purpose of grant of increments and the provisions of FR 22 did not allow any further stepping up of pay in such cases. In the absence of any such rule or executive order to address such anomalies, no stepping up could be granted to the applicant.

6. We have considered the matter. It is not in dispute that the applicant was senior to the said Vijayakumar, both in terms of his date of appointment as UDC as also the length of service put in by him *vis a vis* his junior. We have come across anomalous situations where a senior is fixed at a lower pay than the junior. However, in such cases, the junior was found to have put in much longer service than the senior and earned several increments in the lower scale. However, in the instant case, the applicant had been promoted much before the said Vijayakumar was appointed to the post of UDC on direct recruitment on 21.04.1972 and had put in longer years of service. If the relevant rule failed to address a legitimate grievance of the seniors, it is for the competent authority to consider the matter appropriately and pass orders and not take shelter under FR 22 to deny an otherwise legitimate claim.

7. The applicant has alleged that the persons similarly placed as him in the IA & AD had been granted stepping up of pay on par with the juniors notwithstanding the provisions of FR 22. If true, there is no reason why the respondent department could not follow the same principle in the case of the applicant. The reply of the respondents is silent in regard to the allegation.

8. In the above facts and circumstances of the case, we are of the view that the applicant is entitled to be considered for stepping up of pay at par with his junior with effect from the date from which the junior was fixed at a higher pay. However, the respondents are at liberty to ascertain from IA & AD if the

allegation of the applicant that persons similarly placed as him in the latter department had been granted stepping up of pay at par with the juniors is correct and if so, pass orders refixing the pay of the applicant on the same principles. In case no such stepping up had been granted in IA & AD, the respondents shall still consider the matter objectively in the light of what is discussed above and take a policy decision in this regard so as not to discriminate against seniors with longer service merely on technical grounds without regard to the merits of the claim. The entire exercise shall be completed within four months from the date of receipt of a copy of this order.

9. OA is disposed of in the above terms. No costs.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

17.06.2019

SKSI