

Central Administrative Tribunal  
Principal Bench

O.A. No.2295/2003

New Delhi this the 19th day of January, 2004

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)  
Hon'ble Shri Shanker Raju, Member (J)

Harcharn (Peon),  
Vidhi Sahitya Prakashan,  
Legislative Department,  
Ministry of Law, Justice & Company  
Affairs, Government of India, Indian  
Law Institute Building, Bhagwan Dass Road,  
New Delhi-110001.

-Applicant

(By Advocate: Shri Santosh Kumar)

Versus

1. Union of India through the Secretary, Legislative Department, Ministry of Law & Justice, Shastri Bhawan, New Delhi-110001.
2. The Under Secretary, Government of India, Vidhi Sahitya Prakashan, Legislative Department, Ministry of Law, Justice & Company Affairs, Government of India, Indian Law Institute Building, Bhagwan Dass Road, New Delhi-110001.

-Respondents

(By Advocate: Shri Madhav Panikar)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

By virtue of this OA, applicant has sought direction to respondents to step up his pay at par with his junior namely, Shri Brahma in the revised pay scale from 9.8.1999 with arrears and consequential benefits.

2. Applicant's case is that he was appointed in grade 'D' on 1.9.1978, i.e., more than two years prior to Shri Brahma. Applicant and Shri Brahma have been drawing <sup>pay by</sup> in the same pay scale and on introduction of revised pay scales also they had been in scale of

U<sub>b</sub>

Rs.2610-4000. However, in August 2003, Shri Brahma was accorded a higher pay than the applicant in violation of Fundamental Rule 22(i)(a)(1). Applicant's representation dated 13.9.2002 to Secretary, Legislative Department has remained unactioned.

3. On the other hand, learned counsel of respondents stated that while the applicant was appointed to the post of Safaiwala in Vidhi Sahitya Prakash on 1.9.1978 and later to the post of Peon under transfer quota w.e.f. 9.4.91, Shri Brahma with whom applicant is seeking pay parity was appointed as a Peon on direct recruitment basis w.e.f. 1.1.1981. As applicant was appointed to the post of Peon on transfer basis at a much later date, he was certainly junior to Shri Brahma as per relevant rules and fixation of seniority even ~~then~~ <sup>4/4</sup> applicant had been drawing more pay from time to time than Shri Brahma. This continued till 9.8.1999. Shri Brahma's pay was increased to Rs.3370/- on 9.8.99 vis-a-vis applicant's pay Rs.3300/- w.e.f. 9.8.99 on grant of financial upgradation under the ACP Scheme to Shri Brahma. Applicant did not get benefit of ACP Scheme as he had already been granted in-situ promotion w.e.f 1.4.95 in terms of DOPT OM dated 9.8.1999. Respondents have also filed (Annexure A-6) dated 22.9.2003 along with MA-124/2004, which is an order stating that applicant had been granted in-situ promotion on 1.4.1995 and after completion of 24 years of service, he was granted second financial upgradation on 1.9.2002 in



pay scale of Rs.2750-4400. Learned counsel also stated that applicant's representation dated 19.7.2002 had been rejected and he was duly informed in this regard. His second representation dated 13.9.2002 was also rejected.

4. Learned counsel of applicant was specifically asked to show appointment later of the applicant as Peon as on 1.9.1978. He was unable to produce the same. In this view of the matter, it cannot be said that applicant had been appointed as a Peon right from the beginning and was senior to Shri Brahma. Applicant was also not able to rebut the contention of the respondents that applicant had been granted in-situ promotion w.e.f. 1.4.1995.

5. We have carefully considered the rival contentions.

6. In view of the fact that applicant's initial appointment was not that of a Peon and he had come on transfer basis on the post of Peon much later than appointment of Shri Brahma. He had also been accorded in-situ promotion w.e.f. 1.4.1995. In this backdrop and in terms of DOPT OM dated 9.8.99, applicant is not entitled to grant of stepping up of pay as it cannot be held that he was senior to Shri Brahma.

7. In the result, OA is dismissed being devoid of merit.

*S. Raju*  
(Shanker Raju)  
Member (J)

cc.

*V.K. Majotra*  
(V.K. Majotra)  
Vice-Chairman (A)