
(2006) 12 DEL CK 0097
In the Delhi High Court
Case No : W.P (C) No. 5691 of 2004

Haricharan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-12-2006

Acts Referred:

Citation : (2007) 136 DLT 401

Hon'ble Judges : Vipin Sanghi, J; Manmohan Sarin, J

Bench : Division Bench

Advocate : J.P. Varghese, for the Appellant; Arijeet Ganguly, for Rajeev Mehra, for the Respondent

Final Decision : Dismissed

Judgement

Vipin Sanghi, J.—The petitioner assails the order dated 19.1.2004 in O.A No. 2295/03 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (for short, 'the Tribunal') dismissing his Original Application holding that he was not entitled to grant of stepping up of pay, by relying on the pay scale granted to one Shri Brahma. The Tribunal held that the petitioner's claim that he was senior to one, Shri Brahma was incorrect.

2. The petitioner was appointed as a Safaiwala/Sweeper in Vidhi Sahitya Prakashan on 1.9.1978. He claims that Shri Brahma was his junior, inasmuch as, he was appointed on 1.1.1981. He further claims that he was drawing pay in the scale of Rs. 2610-4000 with effect from 1.1.1996. On 1.9.1999 his pay was fixed at Rs. 3300/-, while Shri Brahma got the same scale from 9.8.99 and his pay was fixed at Rs. 3370/-. This was claimed to be anomalous and in violation of Fundamental Rule 22(i)(a)(1). He has sought stepping up of his pay to ensure that he does not draw lesser pay than his junior Sh. Brahma. Since the respondent did not favorably deal with his representation, he preferred O.A. No. 2295/03 which has been dismissed by the Tribunal.

3. The Tribunal held that the petitioner was appointed to the post of Peon under

transfer quota w.e.f. 9.4.1991. On the other hand, Sh. Brahma, with whom the petitioner seeks parity of pay was directly recruited as a Peon w.e.f. 1.1.1981. The petitioner was specifically required by the Tribunal to show that he was appointed as a Peon on 1.9.1978 which he had failed to do. The Tribunal accepted the contention of the respondent that the petitioner was not senior to Sh. Brahma. The petitioner had already been granted in situ promotion w.e.f. 1.4.1995. The Tribunal, by placing reliance on the ACP Scheme (contained in OM dated August 9, 1999) rejected the claim of the petitioner.

4. Before us, the petitioner has reiterated the same contentions as were raised by him before the Tribunal. It is further contented by him that the post of Safaiwala to which he was appointed in 1978 and the post of Peon were both Group 'D' posts and that there was only a difference in nomenclature and not in the status of the two posts. It could not be said that Shri Brahma was senior to him, merely because Sh. Brahma was appointed as Peon on 1.1.81 while the Petitioner was appointed as Peon on 9.4.91.

5. The petitioner has not produced any material to further substantiate the claim made by him on record. Mere identity of the grade between two posts does not ipso facto lead to the inference that the two posts are of equal status. It is not the petitioner's case that they are interchangeable posts or that the nature of duties and responsibilities of these two posts is identical. In fact, a perusal of the order No. 29/91 dated 12.4.1991 whereby the petitioner was appointed to the post of Peon shows that the Departmental Promotion Committee had considered his case for appointment as a Peon. It cannot Therefore be said that the two posts, merely on account of identity of the grade/pay scale, are equal in all respects. Petitioner Therefore cannot claim parity of pay. We may also refer to the decision of the Hon'ble Supreme Court in this regard to S.I. Rooplal and Another Vs. Lt. Governor Through Chief Secretary, Delhi and Others, wherein the Hon'ble Supreme Court holds:

Equivalency of two posts is not judged by the sole fact of equal pay. While determining the equation of two posts many factors other than "pay" will have to be taken into consideration, like the nature of duties, responsibilities, minimum qualification etc. It is so held by this Court as far back as in the year 1968 in the case of Union of India v. P.K. Roy. In the said judgment, this Court accepted the factors laid down by the Committee of Chief Secretaries which was constituted for settling the disputes regarding equation of posts arising out of the States Reorganisation Act, 1956. These four factors are: (i) the nature and duties of a post; (ii) the responsibilities and powers exercised by the officer holding a post, the extent of territorial or other charge held or responsibilities discharged; (iii) the minimum qualifications, if any, prescribed for recruitment to the post; and (iv) the salary of the post. It is seen that the salary of a post for the purpose of finding out the equivalency of posts is the last of the criteria. If the earlier three criteria mentioned above are fulfilled then the fact that the salaries of the two posts are different would not in any way make the post "not equivalent".

6. We see no merit in this writ petition and Therefore dismiss the same.