

(2013) 07 DEL CK 0207

In the Delhi High Court

Case No : Writ Petition (C) 2445 of 2012

Union of India and Others

APPELLANT

Vs

Mahendra Pal Singh and Another

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0207

Hon'ble Judges : V. Kameswar Rao, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : R.V. Sinha with Mr. R.N. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

1. The question which arises for our consideration in this writ petition is whether the respondent No. 1 is entitled to step up of pay at par with his junior Mr. Subhash Chand with effect from January 01, 2006. The petitioners herein are Union of India and its functionaries who have challenged the order dated January 09, 2012 passed by the Central Administrative Tribunal in Original Application No. 4203/2010 whereby the Tribunal has directed the petitioners to step up the pay of the respondent No. 1 at par with his junior Mr. Subhash Chand with effect from January 01, 2006 and fix his pay accordingly.

2. Notice was issued to the respondents and they have been served as well. There is no representation on their behalf on all the dates when this writ petition was listed. Today also they are unrepresented. Hence we proceed to hear the matter and decide the same.

3. Some of the relevant facts are, the respondent No. 1 was appointed as a "Welder" skilled grade with effect from April 26, 1983 in the scale of Rs. 207-400. Thereafter he was appointed as Mechanic with effect from November 04, 1983 which post was also in the same scale.

4. Pursuant to the recommendations of the 4th Central Pay Commission the

respondent No. 1 was given the revised pay scale of Rs. 950-1500 and his pay was fixed at Rs. 1010/-.

5. With effect from January 30, 1996, respondent No. 1 was promoted as Mechanist (highly skilled) in the pre-revised scale of Rs. 1200-1800 and his pay was fixed at Rs. 1230/-. It may be relevant to note here that on his option, the pay of the respondent No. 1, pursuant to the recommendation of the 5th Central Pay Commission in the pay scale of Rs. 4000-6000 was postponed from January 01, 1996 to April 26, 1996 in the integrated merged pay scale of Rs. 4000-6000.

6. On October 01, 2003 respondent No. 1 was elevated as MCM with effect from October 01, 2003 in the pay scale of Rs. 4500-7000 and his pay was fixed at Rs. 5000/- with effect from April 01, 2004.

7. That in so far as his junior Mr. Subhash Chand is concerned he was promoted as Mechanist in the scale of Rs. 4000-6000 with effect from January 30, 1996 and he has opted for the same scale of pay from the same date and accordingly his pay was fixed at Rs. 4000/- from that date.

8. Because of the fact that the pay of Mr. Subhash Chand was fixed with effect from January 30, 1996 at Rs. 4000, he continued to draw more pay than the respondent No. 1. The representations of respondent No. 1 seeking the fixation of pay at Rs. 4000 with effect from January 01, 1996 went unheeded. The petitioners had fixed the pay of the respondent No. 1 as on January 30, 1996 at Rs. 3800 and that of his junior Mr. Subhash Chand's at Rs. 4000 from the same date.

9. The case of the petitioners is in so far as fixation of pay of the respondent No. 1 is that once an individual has exercised an option the same will be treated as final. According to them the pay fixation would not depend upon the seniority alone and the difference which has arisen is because of the option. In their reply before the Tribunal the petitioners have given a comparative statement showing the fixation of pay and increments granted to the respondent No. 1 and his junior. The same is reproduced as under:

10. It is noted that, the respondent No. 1, in his original application has inter-alia prayed for stepping up of his pay by re-fixing at par with his junior Mr. Subhash Chand. In other words he is claiming step up of pay with effect from January 01, 1996.

11. It is an accepted position that the difference in pay between respondent No. 1 and his junior has primarily arisen because of his option to get his pay fixed pursuant to the recommendations of the 5th Central Pay Commission (in revised scale) with effect from April 26, 1996 i.e. the date of increment. In other words his pay was not fixed in the revised pay scale of Rs. 4000-6000 as on January 01, 1996. He got promotion as Mechanist (highly skilled) with effect from January 30, 1996 when his pay was fixed at Rs. 1230/- which was later revised to Rs. 3800/-, whereas the junior Mr. Subhash Chand's pay was fixed at Rs.

4000 on January 01, 1996 itself. A perusal of the comparative chart would reveal that the difference has arisen on January 01, 1996.

12. The Tribunal agreed with the stand of the petitioners in so far as, the difference of pay, of both as on January 01, 1996. There is no challenge to the said conclusion of the Tribunal by the respondent No. 1. Regrettably it erred by holding that the option given by the respondent No. 1 has lost its relevance with introduction of revised pay scale with effect from January 01, 2006. The Tribunal has overlooked a very important aspect that any difference which has arisen because of fixation under the 5th Central Pay Commission would get transposed under the 6th Central Pay Commission, as well. In fact the pay as fixed of the respondent No. 1 and the junior Mr. Subhash Chand would show that respondent No. 1's pay on January 01, 2006 is fixed at Rs. 13740 whereas that of the respondent at Rs. 13970/-. To that extent the order of the Tribunal is liable to be set aside. We do so. We allow the writ petition and hold that the pay fixation of the respondent No. 1 has been done correctly with effect from January 01, 1996. He is not entitled to stepping up of pay with effect from January 01, 2006.

13. Consequently we dismiss the Original Application No. 4203/2010 filed by respondent No. 1. No costs.

C.M. No. 5226/2012

Dismissed as infructuous.