

Union of India and Others

Vs

Sushil Kumar Paul and Others

Civil Appeals Nos. 2485-86 of 1998

(S. P. Kurdukar, G. T. Nanavati JJ)

24.04.1998

JUDGMENT

G. T. NANAVATI, J. –

1. Delay condoned.
2. Special leave granted.
3. We have heard learned counsel for the parties.
4. The only question which arises for consideration in these appeals is whether the Central Administrative Tribunal was right in allowing the application of the respondents directing the appellants to step up their pay so as to bring it on a par with the pay of B. C. Mishra who was their junior but was getting a higher pay.
5. It is held by the Tribunal that the respondents and Mishra belonged to the same cadre and their pay scales were also the same in the lower posts and, therefore, they are entitled to the benefit of stepping up. But, what the Tribunal has failed to take into consideration is the circular dated 4-11-1993 issued by the Government of India, Department of Personnel & Training which clearly provides that the anomaly for granting benefit of stepping up of pay should be directly as a result of the application of Fundamental Rule 22-C and that if a junior officer draws a higher pay in the lower post either because of advance increments or on any other account then the provision of stepping up would not apply in such a case. Moreover in paragraph 2(c) of the circular it is further provided that if a senior joins the higher post later than the junior, for whatsoever reason, whereby he draws less pay than the junior, in such a case the senior cannot claim stepping up of pay on a par with the junior.
6. In this case what had happened was that the respondents and Mishra were appointed as typists/clerks on different dates but were promoted to the post of Welfare Inspector Grade III on the same date. Mishra was promoted to Grade II earlier than the respondents on ad hoc basis. He was promoted as Welfare Inspector Grade II on 1-2-1981 on ad hoc basis and worked continuously on the higher post up to 1-1-1984 on which date the two respondents and Mishra were promoted as Welfare Inspectors Grade II on regular basis. At that time he was getting a higher pay than the respondents because of his earlier ad hoc promotion. Mishra was again promoted as Welfare Inspector Grade I on ad hoc basis and worked on that post continuously from 28-7-1986 to 13-1-1993. On 13-1-1993 the respondents and Mishra were promoted to Grade I on regular basis. On that date also Mishra was getting a higher pay because of his ad hoc promotion as Welfare Inspector

Grade I. It was for that reason that Mishra, even though he was a junior, was getting more pay than the respondents. In view of these facts, i.e., the circular governing stepping up of pay issued by the Railway Board and the law laid down by this Court in *Union of India v. O. P. Saxena* ((1997) 6 SCC 360 : 1997 SCC (L&S) 1667) the respondents were not entitled to the benefit of stepping up. The Tribunal thus committed an error in granting that benefit to the respondents. We, therefore, allow these appeals and set aside the impugned orders of the Tribunal.

7. No order as to costs.