

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No. 7548/2007**

% **16th March, 2017**

SHRI ZILE SINGH

..... Petitioner

Through: Mr. Arun Bhardwaj and Mr. Nikhil
Bhardwaj and Mr. Sriram A,
Advocates.

versus

FOOD CORPORATION OF INDIA AND ORS.

..... Respondents

Through: Mr. P.L. Chopra, Advocate for FCI.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, the petitioner seeks the relief of payment of pay-scale at IDA pattern for the post of Assistant Manger (Quality Control). Petitioner pleads and contends that petitioner was granted promotion to the post of Assistant Manager (Quality Control) vide order dated 29.10.1988 with the pay-scale of Rs.650-30-740-35-880-1200/- and this pay-scale was as per IDA pattern. There was however an issue which arose with respect to the claim of the petitioner for pay-scale not as per IDA pattern but as per CDA pattern, however, the petitioner pleads that merely because there existed disputes as

to whether the petitioner could or could not be granted pay-scale as per CDA pattern, it would not mean that at the admitted IDA pattern pay-scale should not have been paid to the petitioner in terms of the promotion order dated 29.10.1988. Petitioner pursuant to the promotion order dated 29.10.1988 joined the promotion post in terms of the order dated 6.2.1989 of the respondent no. 1/employer. The promotion order dated 29.10.1988 and the order dated 6.2.1989 pursuant to which petitioner joined the transferred station at Firozpur, Punjab, read as under:-

1. Promotion order dated 29.10.1988.

“THE FOOD CORPORATION OF INDIA
ZONAL OFFICE(N), DDA COMPLEX
RAJINDERA PLACE, NEW DELHI

No. Estt.I/2(3)/07-NZ/

Dated: 29-10-1988

OFFICE ORDER NO. 33/89

The Technical Assistant Grade-I whose particulars are given in the Statement No.I are hereby promoted as Assistant Manager (QC) with immediate effect in the pay scale of Rs.650-30-740-35-880-1200/- and posted to the Regions indicated against their names. Further orders of posting, in the region will be issued by the concerned Regional Heads.

Their promotion will take effect from the date they join in the promoted post and will be without prejudice to the claims of those senior to them as Technical Assistant Grade-I.

All the promotes will be on probation for a period of one year from the date of their joining as Assistant Manager (QC), which may be extended for further period not exceeding one year.

Before serving the orders of promotion, the controlling authorities are requested to ensure that no vigilance case is pending/contemplated against the officials.

The officials should be relieved immediately with the instructions to report to the concerned controlling authority for further deployment as Assistant Manager (QC). The dates of serving of promotion orders, relieving and joining should be intimated to Estt. I Sec. of ZO(H), immediately on their relieving/joining.

The officials are directed to join on promotion within 30 days from the date of serving of promotion orders to them. The promotion order of an official will stand cancelled if he does not join by the stipulated date. Further it will be deemed that he is not interested to go on promotion and he will be debarred from promotion for a period of one year as per Circular No. 4-9/08_EP/Pt.III dated 1/7.6.82.

The normal TA/DA and joining time will be admissible as per rules.

The cases of officials whose particulars are given in the Statement II have been deferred for consideration and orders about them will follow. The officials may be informed suitably.

The cases of officials whose particulars are given in the Statement III have been found not suitable for promotion.

The Assistant Manager (QC) shown in Statement –IV are transferred to the Regions/offices mentioned against each, at their own request. They may be relieved with the directions to report for duty to SRM concerned for further deployment. The transfer benefits to them will be regulated in terms of Hqrs. Circular No. 44 of 1983.

Sd/-

(MCS GUPTA)

DY. MANAGER (ADMI.I)

FOR ZONAL MANAGER (N)”

2. Order dated 6.2.1989

“THE FOOD CORPORATION OF INDIA
FOOD STORAGE DEPOT
NARWANA, DELHI-40

No. CC/25/00/St/N’86

Dated: 6.2.1989

OFFICE ORDER

In compliance with the Distt. Office FCI, Shaktinagar, Delhi office order No. A.S. (i)/Admin./St/N/DO/87-88/5051 dated 16-11-1989, Sh. Zile Singh, TA-I, having been promoted as AM(QC) vide D/o (N) New Delhi order No. 33/88 dated 29/31-10-88, bearing file No. Estt.1(2)/3/87-NZ/197: received vide D/o New Delhi letter No. 237/88 dated 7-11-88 bearing file No. Estt. 2(2)/88/1227, is hereby relieved from this depot w.e.f. the A/N of 7-2-89, for further report to R/o Punjab, Chandigarh.

Normal TA/DA and joining will be admissible as per rules.

Sd/-

(P. JAIN)

Asstt. Manager (QC)

FSD Narwana Depot.”

2. The period in question is the period from February, 1989 till 30.6.2005.

3. There is no dispute that even assuming the petitioner was not liable to be paid his pay-scale as per the CDA pattern, then petitioner admittedly had to be paid as per the admitted IDA pattern and as stated in

the promotion order dated 29.10.1988. Petitioner, however, was not paid the pay-scale of the promotion post of Assistant Manager (Quality Control) as stated in the promotion order dated 29.10.1988 till 30.6.2005, and whereafter the pay-scale of IDA pattern of the post of Assistant Manager (Quality Control) was paid to the petitioner. The details with respect to the amounts already paid to the petitioner and the amounts due to the petitioner in IDA pattern for the post of Assistant Manager (Quality Control) is stated in the order of the respondent no. 1/employer dated 22.12.2005 and which order reads as under:-

“FOOD CORPORATION OF INDIA
REGIONAL OFFICE : HARYANA
PANCHKULA

No. A/1(5545)/95/II/7886

Dated 22.12.2005

OFFICE ORDER

Basic pay in respect of Sh. Zile Singh, Ex-Manager (QC) D.O.B. 27.6.45 of Distt. Office Rohtak is fixed as under in I.D.A. Pattern:-

W.E.F _____	Pay Already <u>Drawn</u>	Pay <u>Fixed</u>	
1.8.83	635/-	1445/-	
1.1.84	1445/-	1480/-	
1.1.85	1480/-	1515/-	
1.1.86	2000/-CDA	1560/-	
1.1.87	2050/-	1610/-	
1.8.87	2050/-	2470/-	
1.12.87	2050/-	2660/-	Selection Grade.
1.1.88	2100/-	2770/-	
1.1.89	2150/-	2880/-	
13.3.89	2240/-	3580/-	Promoted as AM(QC)
1.1.90	2300/-	3700/-	
1.1.91	2375/-	3820/-	
1.1.92	2450/-	5575/-	
1.1.93	2525/-	5750/-	
1.1.94	2600/-	5925/-	
1.1.95	2600/-	5925/-	Stoppage of two increment without cumulative effect.

1.1.96	7900/-	5925/-	
31.12.96	7900/-	9850/-	
1.1.97	8100/-	10600/-	Released two increments stopped w.e.f. 1.1.95 and wage revision w.e.f 1.1.97.
1.1.98	8300/-	10850/-	
1.1.99	8300/-	10850/-	Stoppage of three increments w.e.f. 1.1.99 without cumulative effect.
1.1.2000	8300/-	10850/-	
1.1.2001	8300/-	10820/-	
1.1.2002	8300/-	11600/-	Released three increments stopped w.e.f. 1.1.99 & stoppage of one increment with cumulative effect w.e.f. 1.1.2002.
1.1.2003	8700/-	11600/-	Stoppage of two increment without cumulative effect from
1.1.2004	8700/-	11600/-	*1.1.99 effect taken w.e.f. 1.1.03.
1.1.2005 to 30.6.2005	8700/-	12100/-**	**Released two increments stopped w.e.f. 1.1.99 effected from 1.1.03

This issues with the concurrence of Regional Finance/Audit & approval of the competent authority.

Sd/-

Manager (Estt.)

For Dy. General Manager”

4. In view of the above discussion, it is seen that petitioner was admittedly promoted to the post of Assistant Manager (Quality Control) in terms of the order dated 29.10.1988. Once, the petitioner is promoted to the post of Assistant Manager (Quality Control) and he joined Firozpur, Punjab, pursuant to the office order dated 6.2.1989 then even if there was a dispute of the petitioner not being entitled to the higher CDA pattern even then the petitioner had to be paid the pay-scale of Assistant Manager (Quality Control) as per the admitted IDA pattern with the pay-scale being pay scale

at Rs. 650-30-740-35-880-1200/- as stated in the promotion order dated 29.10.1988.

5. Since, therefore, petitioner was not paid the higher pay-scale of the post of Assistant Manager (Quality Control) from February, 1989 till 30.6.2005, and no valid reasons are given by the respondent no. 1/employer not to make payment as per the IDA pattern, inasmuch as, the disputes existing with respect to higher CDA pattern whether or not to be granted to the petitioner is no ground to refuse payment and give pay-scale to the petitioner of the admitted IDA pattern/pay-scale.

6. Since petitioner has also suffered on account of not receiving the requisite payment at the higher pay-scale of the promotion post of Assistant Manager (Quality Control), with the further effect that petitioner will now receive the IDA pay-scale with considerable delay, therefore, the petitioner will be entitled to payment of interest on the unpaid amount which the petitioner has not been paid for the period from February, 1989 to 30.6.2005. Putting it in different words, petitioner will be entitled to the pay-scale of Assistant Manager (Quality Control) in terms of the promotion order and pay-scale stated in the order of respondent no. 1/employer dated 29.10.1988 with further revisions as applicable, subject to entitlement of the respondent no. 1/employer to make adjustments for the payments which

have already been made by respondent no. 1/employer to the petitioner for this period of February, 1989 to 30.6.2005.

7. In view of the above, this writ petition is allowed and petitioner is held entitled to payment of pay-scale of Assistant Manager (Quality Control) at IDA pay-scale in terms of the promotion order dated 29.10.1988 (with applicable revisions in the said pay-scale) for the period in question being from February, 1989 till 30.6.2005, and on the amounts which are payable to the petitioner, the petitioner will be entitled to interest at the rate of 7% per annum simple from the date on which payment became due till the date when respondent no. 1/employer now makes payment to the petitioner in terms of the present judgment. The said payment be made to the petitioner within a period of two months from today.

8. The writ petition is accordingly allowed and disposed of in the aforesaid terms.

MARCH 16, 2017

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VALMIKI J. MEHTA, J