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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No. 3093/2002

Monday, this the 8th day of December, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

1. Sudesh Kumar
ASI (Miniserial) No.214/D
s/o Late Narendra Dev Sharma
r/o B-8, Old Police Lines
Rajpur Road, Delhi
2. Mohan Lal
ASI (Ministerial) No.2439/D
s/o Late Shri Shankar Dutt Sharma
r/o H.No.75
Police Station Geeta Colony
Delhi
3. Satender Pal
ASI (Ministerial) No.4389/D
s/o late Mahohar Lal
r/o 290, Jheel Kuranja, Delhi

..Applicants

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
through its Secretary
Ministry of Home Affairs
North Block, New Delhi-1
2. Govt. of NCT of Delhi
through its Chief Secretary
Delhi Secretariate
5th level, "C" Wing
IP Estate, Delhi
3. Commissioner of Police
Delhi, Police Headquarters
MSO Building, IP Estate
Delhi
4. Deputy Commissioner of Police
Headquarters
MSO Building, IP Estate
Delhi

..Respondents

(By Advocates: Smt. P.K. Gupta for respondent No.1 &
Smt. Renu George for respondent Nos. 2-4)

O R D E R (ORAL)

Justice V.S. Aggarwal:

The Government of India had appointed the 5th
Central Pay Commission. In pursuance of the

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recommendations of the 5th Pay Commission, the pay scales of the applicants, who are Assistant Sub Inspector (Ministerial) in Delhi Police, had been revised and fixed at Rs.4000-6000/-. The applicants contended that as a result of this fixation, their pay has been reduced. This matter had been considered by the Departmental Anomaly Committee. The Deputy Commissioner of Police, Headquarters, Delhi on 2.5.2001, on the representations of the applicants and the report of the Departmental Anomaly Committee, suggested to the Ministry of Home Affairs that the pay scales of the persons, like the applicants, deserve to be revised. In the said letter, it was suggested that revision should be in the pay scale higher than what we have referred to above. There was a reference that it should be in the scale of Rs.4500-7000/-. The matter had been considered and the claim of the applicants had been rejected vide the impugned order dated 14/15.1.2002 which is being reproduced below for the sake of facility:-

"I am directed to refer to the correspondence resting with PHQ's letter No.15651/CR-II (PHQ) dated the 12th June 1998 on the subject cited above and to say that the matter has been examined in consultation with Ministry of Finance (Department of Expenditure). It is, however, regretted that request of the representationists for revision of their pay scale could not be acceded to."

2. It is requested that the above decision may be intimated to the representationists."

2. Learned counsel for applicants has contended that since the matter had been referred in terms of what we have mentioned above, the Departmental Anomaly Committee

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should have been constituted to consider the same, and in support of his arguments, learned counsel relied upon the Office Memorandum No.19/1/97-JCA dated 6.2.1998.

3. The petition had been contested basically by respondent No.1. In the reply filed, it has been pleaded that after implementation of the recommendations of 4th Central Pay Commission, the pay scales of the Assistant Sub Inspectors of Delhi Police had been placed in the scale of Rs.1320-2040/- . The 5th Central Pay Commission did not make any recommendation for upgradation of the scale of pay attached to the post of Assistant Sub Inspector in Delhi Police. Accordingly, their corresponding pay scale was fixed at Rs.4000-6000/- . The Departmental Anomaly Committee of Delhi Police had examined the matter and had observed that as per the anomaly in the pay defined by virtue of the Office Memorandum issued by the Department of Personnel & Training dated 6.2.1998, an anomaly did exist in the pay scale of the post of Assistant Sub Inspector. The Assistant Sub Inspectors of Delhi Police had suffered a direct loss of Rs.34/- per month. The representations and the recommendations of the Departmental Anomaly Committee had been considered and the same had been rejected.

4. It is on these facts that respondents defend the impugned order, which we have reproduced above.

5. In the facts of the present case, it is patent that on implementation of the report of 5th Central Pay

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Commission when the scale of the applicants had been fixed at Rs.4000-6000/-, their pay was reduced by Rs.34/- per month. This fact is not being controverted.

6. The Office Memorandum of 6.2.1998 does refer to such a situation. It clearly provides that where the Departmental Anomaly Committee receives the anomaly through the Secretary, Staff Side or otherwise, it will dispose of the matter. In the present case, the matter has not been referred to the ~~Departmental~~ Anomaly Committee instead respondent No.1 has passed the impugned order, which we have reproduced above.

7. It is somewhat strange that not only the matter was not so referred to the ~~Departmental~~ Anomaly Committee, but despite there being reduction in the pay scale of the applicants, without considering that aspect, the wrong is being perpetuated. We hasten to add that this Tribunal is not giving any directions as to what pay scale has to be given and how the matter has to be dealt with. This is for the reason that it is within the domain of the concerned Ministry. But the sequence of events, which we have referred to above, clearly shows that the pay of the applicants had been reduced, non-speaking order had been passed and grievance not dealt with in the manner prescribed.

8. Resultantly, the petition is allowed and the impugned order is quashed. We direct the respondents to re-consider the matter in accordance with law.

Naik
(S.K. Naik)
Member (A)

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(V.S. Aggarwal)
Chairman

/sunil/