CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1916/99 with O.A.No.2011/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 19th day of May, 2000

O.A.No.1916/99:

Man Mohan Sharma
259, New Layalpur
Krishna Nagar
Delhi. ... Applicant

(In Person)

Vs.

1. Govt. of N.C.T. of Delhi
through Chief Secretary
Govt. of N.C.T. of Delhi.

2. Secretary (Finance)
Govt. of N.C.T. of Delhi.
through P.A.O.No.10,
Old Sectt.

3. Principal Secretary
Services, Govt. of N.C.T. of Delhi
5, Sham Nath Marg.

4. Principal G.B.S.S.S.No.1
Gandhi Nagar
Delhi.

5. Director of Education
Old Sectt.
Delhi - 110 006. ... Respondents

(By Shri Ajesh Luthra, Advocate)

with

O.A.No.2011/99:

Shri M.P.Sharma
s/o late Pandit Goverdhan Dass
r/o 4422, Sachdeva Lane
7/2, Ansari Road
Darya Ganj
New Delhi - 110 002. ... Applicant

(By Shri S.K.Gupta, Advocate)

Vs.

1. Govt. of NCT of Delhi
Through Chief Secretary
5, Sham Nath Marg
Delhi.

2. Principal Secretary
(Finance)
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi.

3. P.A.O. No.15
IIIrd Floor, MRD Block
L&J.P.Hospital
Jawahar Lal Nehru Marg
New Delhi.

4. Director
Directorate of Education
Old Secretariat
Delhi.

5. Principal
Govt. Girls Sr. Sec. School
G-Block, Paiwalan Complex
Panama Building
Jama Masjid
Delhi. ... Respondents

(By Shri Ajesh Luthra, Advocate)

ORDER

By Smt. Shanta Shastry, Member(A):

As the questions of law and fact that arise in both the cases are same, they are disposed of, by a common order.

2. For the purpose of convenience and to illustrate the factual position, the facts in OA No.2011/99 are stated hereunder:

3. The applicant in OA No.1916/99 was working in the office of Respondent No.5 as Superintendent Gr.I. He belongs to Grade-I, Delhi Administrative Subordinate Services (in short 'DASS'). As per the recommendations of the Fourth Pay Commission, the applicant was given the pay scale of Rs.1640-2900 w.e.f. 1.1.1986. The pay scale of Grade-I was upgraded to Rs.2000-3200 w.e.f. 19.3.1996 but subsequently the revised scale was given with retrospective effect from 1.1.1996, by order dated

17.6.1999. As per the recommendations of the Fifth Pay Commission, the pay scales were revised and the corresponding pay scale for Rs.2000-3200 is Rs.6500-10500. It was submitted that as the applicant is entitled for one increment in the revised pay scale for every three increments in the existing scale, the applicant's pay should have been fixed, after allowing two increments, which is also in accordance with the CCS Revised Pay Rules, 1997 at Rs.6900/- as on 1.1.1996 instead of Rs.6500/- as was fixed by the respondents. It is the case of the applicant that the date of his next increment in the old scale was 1.2.1995 hence, the applicant was entitled for the grant of next increment on 1.2.1996. The applicant is aggrieved that after refixing his pay at Rs.6500/- i.e. the minimum of the new scale of Rs.6500-10500 denying him the benefit of increments earned by him in pre-revised scale and also recovering the difference in the salary, fixed initially, and the salary refixed now. He has sought refund of the difference in salary, along with retaining his original pay fixed at Rs.6900/- with the next date of increment as 1.2.1996.

4. The applicant in OA 2011/99 is holding the post of DDO in the office of Respondent NNo.5. He belongs to Grade I of Delhi Admn. Subordinate Service. In his case his pay was fixed at Rs.7100/- initially as on 1.1.96 after allowing him 3 increments. Later on, the same has been refixed at Rs.6700. On his making an application against the revised fixation, respondents had rejected his request for refixing at Rs.7100 as on 1.1.96. The applicant has also claimed that he is entitled to next increment on 1.8.1996. He therefore has sought direction to the

respondents to restore his original pay fixation at Rs.7100, with the date of next increment on 1.8.96 and to pay him arrears along with interest at the rate of 16 per cent.

5. The case of the respondents however is that when the applicants scale has been revised to Rs.2000-3200 it would be deemed that the applicants have been appointed as per FR.23 of FRSR Part-I and hence his pay should be fixed only in that scale not in the revised pay scale of Rs.6500-10500 w.e.f. 1.1.1996 and the applicant should be entitled for the next date of increment only on 1.1.1997.

6. We have perused the pleadings and have given careful consideration to the arguments advanced by the learned counsel.

7. The short issue is whether the applicants in the two OAs are entitled to one increment in the new pay scale for every 3 increments earned in the existing scale. Initially the respondents had fixed the pay of the applicants after giving them the benefit of one increment for every 3 increments earned in the pre-revised scale. However, the respondents had cancelled the same by refixing the pay of the applicant in OA 1916/99 at the minimum of the scale and that of the applicant in OA 2011/99 at Rs.6700. Before we consider this, it is necessary to peruse Rule 7(1) of the CCS (Revisecd Pay) Rules. The relevant portion is reproduced below.

"The initial pay of a Government servant who elects, or is deemed to have elected under sub-rule (3) of rule 6 to be governed by the revised scale on and from the 1st day of January,1996 shall be fixed in the following manner,

(A) in the case of all employees, -

(i) an amount representing 40 per cent of the basic pay in the existing scale shall be added to the 'existing emoluments' of the employees;

(ii) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage next above the amount thus computed.

Provided that -

(a) if the minimum of the revised scale is more than the amount so arrived at, the pay shall be fixed lat the minimum of the revised scale;

(b) if the amount so arrived at is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale.

Provided further that where in the fixation of pay, the pay of Government servants drawing pay at more than four consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first four consecutive stages in the existing scale shall be stepped upto the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner.....

Provided also that -

The fixation thus made shall ensure that every employee will get atleast once increment in the revised scale of pay for every three increments (inclusive of stagnation increments, if any) in the existing scale of pay.

8. According to this rule, the initial pay is to be fixed by taking into account the basic pay, plus DA, plus the amount of interim reliefs granted in the existing scale. Thereafter 40% of the basic pay in the existing scale is to be added to the emoluments thus worked out. After the existing emoluments are so

increased, the pay is to be fixed in the revised scale at the stage next above the amount thus computed. If the amount so arrived is less than the minimum of the revised scale, then pay has to be fixed at the minimum of the revised scale and if it is more than the maximum of revised scale the pay has to be fixed at the maximum of the pay. It is further provided that if there is bunching of more than four consecutive stages then additional increments are allowed. There is a further proviso that while fixing the pay thus it shall be ensured that every employee will get atleast one increment in the revised scale of pay for every 3 increments including the stagnation increment, if any, in the existing scale of pay for every 3 increments earned.

9. In the instant case, applicant in OA 1916/99 was drawing Rs.2000 as basic pay in the scale of Rs.1640-2900 which was the pre-revised scale. This scale was upgraded to Rs.2000-3200 with effect from 1.1.96 and the replacement scale for this is Rs.6500-10500. Going by the formula in rule 7(1) of the revised pay rules, applicant's pay could be fixed as follows:

Basic pay	..	Rs.2000
DA	..	3960
Two interim reliefs	...	300
Total	..	5260
40% of basic pay		800
Grand total		6060

This amount being less than the minimum of Rs.6500-10500 the pay can be fixed at Rs.6500. However, in view of the proviso in Rule 7(1) if the applicants were to be allowed one increment for every 3 increments earned in the old scale i.e. Rs.1640-2900, then the applicant becomes entitled to two increments in the scale of Rs.6500-10500. Thus his pay gets fixed at Rs.6900 as was done by the respondents initially. Similarly in respect of applicant in OA No.2011/99 the pay should get fixed at Rs.7100/- as he was drawing Rs.2180 as basic pay and had earned nine increments in the old scale. Hence, he would get three increments in the revised scale of Rs.6500 to Rs.10500. This pay fixation is supported by the illustration given in Model Table 26 of the compilation of the 5th Central Pay Commission report wherein it has been shown that where the pre-revised scale was Rs.1640-2900 and revised to Rs.6500-10500, for those who were getting Rs.2000 in the pre-revised scale the pay is fixed at Rs.6900 in the new scale.

10. Respondents however argue that in this model table 26 the existing scale of Rs.1640-2900 was strightaway revised to Rs.6500-10500 and it was applicable only to Librarian senior scale, TGT senior scale, PGT, Headmaster Middle School and not to the non-teaching staff of the Directorate of Education. It is true that the applicant's original scale of Rs.1640-2900 was upgraded to Rs.2000-3200 initially with effect from 19.3.96. However, later on the respondents issued order dated 17.6.99 consequent upon the recommendation of the 5th Central Pay Commission amending the date of revision of pay scale of Grade I

from Rs.1640-2900 (pre-revised) to Rs.2000-3200 (pre-revised) with effect from 1.1.96 (corresponding revised scale of Rs.6500-10500). Therefore on 1.1.96, the scale of Rs.2000-3200 was not existent and hence it can be said that the applicants were given revised scale of Rs.6500-10500 directly from the existing scale of Rs.1640-2900. Therefore in our view model table 26 (supra) should be applicable to the applicants in both the OAs also.

11. Further as per the ratio of the decision of the Supreme Court in Union of India & Another Vs. Shyama Pada Sidhanta and Others, 1991 Supp(1) SCC 542 wherein it has been held that where there has been a revision of pay scales the employee should not wait for twelve months from the date of fixation of their pay in the new scale for earning increment in the revised scale, the employees are entitled to get the first increment in the new scale as on the due date in the old scale. In the instant case, it should be noted that the applicants were allowed the revised pay scale Rs.2000-3200 w.e.f. 1.1.1996 when the corresponding pay scale being Rs.6500-10500, the applicants are entitled for fixation of their pay scale in the corresponding pay scale of Rs.6500-10500 and not in the scale of Rs.2000-3200. As per the ratio in the above case, UOI & Another Vs. Shyama Pada Sidhanta and Others (Supra) as the pay scale of the applicants has been revised w.e.f. 1.1.1996, they are entitled to the next increment on the normal date of increment in the lower scale and not after the completion of 12 months from the date of fixation of their pay in the new scale. Hence, we are

of the view that the pay scale of the applicants have been initially rightly fixed. The proposed revision is therefore not permissible.

12. We therefore hold that the applicants are entitled to get their pay fixed after computing all the requisite increments as provided in 3rd proviso to rule 7(1) in the revised scale. Accordingly the applicant in OA 1916/99 is entitled to get his pay fixed at Rs.6900 in the revised scale after allowing two increments for the six increments earned by him in the pre-revised scale. Similarly applicant in OA 2011/99 is entitled to get his pay fixed at Rs.7100 after allowing him 3 increments for the 9 increments earned by him in the pre-revised scale. The respondents are therefore directed to fix the applicants' pay after allowing the respective member of increments in the pay scale of Rs.6500-10500 and allowing the next date of increment on the normal dates of increments in the earlier scale and to refund the difference in salary, recovered, if any.

13. The OAs are accordingly allowed. We do no order any costs.

(SMT. SHANTA SHASTRY)
Member(A)

(V.RAJAGOPALA REDDY)
Vice-Chairman(J)

/RAO/