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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.539/1999

New Delhi, this 30th day of January, 2001

Hon'ble Shri V.K. Majotra, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

1. R.B. Prasad
997/S-12, R.K.Puram, New Delhi
2. K.D. Sood
507C/S-3, R.K.Puram, New Delhi
3. V.Kumar
N-494/S-49, R.K.Puram, New Delhi
4. Mukteshwar Mishra
1093, S-12, R.K.Puram, New Delhi
5. Tara Chand
C-6/458, Yamuna Vihar, Delhi
6. S.N.Chaudhary
E-16, Nanakpura
Moti Bagh II, New Delhi
7. M.P. Dhooria
1353, Mukherjee Nagar, Delhi .. Applicants

(By Shri G.S.Chaman, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Secretary
Dept. of Expenditure
Ministry of Finance, New Delhi
3. Director
Intelligence Bureau
North Block, New Delhi .. Respondents

(By Shri D.S.Jagotra, Advocate)

ORDER

By Shri Shanker Raju

By the present OA, the applicants have challenged the orders dated 13.8.98 and 5.11.98 by which their claim for fixing their pay scale first notionally in the pre-revised upgraded scale of Rs.2200-4000 and then in the replacement scale of Rs.8000-13500 has been rejected.

2. Heard the rival contentions of the contesting parties and perused the records.

3. It is the case of the applicants, who are working as Deputy Central Intelligence Officers (DCIOs, for short) under R-3, that prior to the recommendations of the 5th Central Pay Commission (CPC, for short) their pay scale was Rs.2000/3500 plus Rs.200 as special pay. However, with the acceptance of the recommendations of the 5th CPC, their pay scale was revised to Rs.8000-13500 w.e.f. 1.1.96 vide Ministry of Finance OM dated 30.9.1997. Applicants place their reliance on OM dated 8.1.1998 wherein sanction of the competent authority to give the upgraded pay scale of Rs.2200-4000 (pre-revised) to DCIOs in Intelligence Bureau w.e.f. 1.1.96 was conveyed pending finalising of recruitment rules.

4. Respondents in their reply contend that the aforesaid claim is untenable as the applicants are trying to project a situation whereby they actually are seeking double benefit of refixation of pay through totally wrong and misleading interpretation. They further contend that even in cases of posts for which a higher pay scale was recommended, the higher pay scale, as notified, was to take effect from 1.1.96 provided no restructuring of cadres or redistribution of posts was involved, in which case the upgraded scale was to be made effective only prospectively. As no restructuring or redistribution of posts was involved in the cases of applicants they were extended the higher scale of Rs.8000-13500 corresponding in the pre-revised scale of Rs.2200-4000 retrospectively with effect from 1.1.96. The salary of applicants could not be fixed in the pay scale of Rs.2200-4000 as the same did not exist on 1.1.96, as the same was replaced by Rs.8000-13500 vide Ministry of Finance's notification dated 30.9.97.

5. Respondents also contend that the case of applicants was also referred to Ministry of Finance (R-2) - nodal Ministry for pay fixation matters - and based on their advice respondents adopted the formula for fixation of pay of the applicants and a uniform policy was laid down vide instructions dated 1.6.98. The said Memorandum dated 1.6.98 stipulates as under:

"3. In supersession of all previous orders on the subject and in view of the position explained above, the pay of all the DCIOs may now be fixed straightaway on the basis of pay drawn by hem as on 1.1.96 in the pre-revised scale of pay Rs.2000-35000 to the revised enhanced scale of pay of Rs.8000-13500. The component of special pay may also be treated as part of existing emoluments as per provisions of Rule 7(1)(B) of CCS(RP) Rules, 1997 for the purpose of fixation of pay in the revised enhanced scale of Rs.8000-13500. It is amply clear from the clarification provided by MHA that DCIOs are not entitled to any special pay in the revised enhanced scale of pay of Rs.8000-13500."

6. The learned counsel for the applicants has drawn our attention to the Memo dated 4.2.98 wherein it has been clarified that consequent upon the recommendations of the V CPC to the grant of upgraded pre-revised scale of pay of Rs.2200-4000 to DCIOs in IB with effect from 1.1.96 and also the replacement scale of pay of Rs.8000-13500 with effect from the same date, the applicants in IB cease to draw the pre-revised scale of pay of Rs.2200-3500 plus special pay of Rs.200 with effect from 1.1.96. The said Memo has further clarified how to fix the pay of the incumbent in Rs.2000-3500 from 1.1.96 and again in the pay scale of Rs.8000-13500 from the same date. However Memo dated 1.6.98 was issued by the respondents in supersession of all previous orders on the subject as mentioned in para 5 above. Therefore,



the applicants cannot get the double benefit of two fixations from the very same date, the counsel for the respondents would contend. Applicants further contended that they have been discriminated arbitrarily vis-a-vis one Shri S.L.Raina who has been given pay of Rs.3300 in the pre-revised scale of Rs.2200-4000 from 1.1.96 and then Rs.10,2000 in the revised replacement scale of Rs.8000-13500 from the same date, vide order dated 15.1.98. Respondents refuting this contended that it was on account of a mistake which has been rectified and accordingly the pay of Shri Raina has been subsequently modified. As such, the contention of the applicant is devoid of merit and accordingly is rejected.

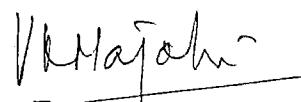
7. We find that the applicants have not come with any valid grounds or any judicial pronouncements to buttress their claim.

8. In the circumstances, we are of the considered view that the judgements cited by the applicants claim are not relevant to the issue involved here. We also find that the respondents have given a reasoned and speaking order in rightly rejecting the claim of the applicants.

9. In the result, we find any merit in the present OA and the same is dismissed. There shall be no order as to costs.



(Shanker Raju)
Member(J)



(V.K. Majotra)
Member(A)

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