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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1836/98

NEW Delhi, this 25th day of February, 2000

Hon'ble Smt. Shanta Shastry, Member(A)

S.R. Singh
A46G, DDA Flats
Munirka, New Delhi-67 .. Applicant

(By Shri R.L.Sethi, Advocates)

versus

Union of India, through

1. Secretary
Department of Education
Ministry of Human Resource Development
New Delhi .. Respondents
2. Secretary
Department of Expenditure
Ministry of Finance
New Delhi .. Respondents

(By Shri R.V.Sinha, Advocate)

ORDER

The applicant has challenged the impugned letter dated 9.7.98 issued by R-1 denying him point-to-point fixation of his initial pay in the revised pay scale of pay Rs.12000-15600 on the implementation of the recommendations of the Fifth Central Pay Commission (FCPC, for short).

2. The applicant retired from the post of Deputy Educational Advisor in the Department of Education, Ministry of Human Resource Development, New Delhi on 31.1.97. He was in the pre-revised scale of Rs.3700-5000 and entered into that scale at the stage of Rs.4200 on 1.12.89. He earned six increments in the scale before he reached the maximum of the scale on 31.12.95. Consequent upon the acceptance of the recommendations of FCPC, Government of India issued

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resolution dated 30.9.97 and made the revised pay scales applicable with effect from 1.1.96. Applicant's pre-revised scale of Rs.3700-5000 was equated with the scale of Rs.12000-375-16500 in the revised pay scale. Applicant opted for the revised pay scale from 1.1.96 under the CCS(Revised Pay) Rules, 1997. R-1 thereafter fixed applicant's pay on 27.10.97 at Rs.13,500 in the revised pay scale as per the instructions of the Government of India regarding pay fixation.

3. According to the applicant, his pay should have been fixed at Rs.15750 in the revised scale. He relies upon the formula devised by R-2 in CCS(revised Pay) Rules, 1997. According to him, the formula for fixation of pay devised by the respondents suffers from anamoly and a mistake discriminating against the applicant. The FCPC recommended Rs.12000-165000 covering the span of 12 years and the pre-revised scale of Rs.3700-5000 ran into a span of 10 years. Both the scales are comparable in terms of span of years and promotional avenues including point-to-point fixation of pay. According to the proviso to CCS(revised pay) Rules, 1997, fixation of pay thus made shall ensure that every employee will get at least one increment in the revised scale for every three increments (inclusive of stagnation increment, if any) in the pre-revised scale of pay. If this provision is taken into consideration, then the applicant had drawn 7 increments in the pre-revised scale and had stagnated for more than one year, so 3 increments are to be allowed in the new scale and plus one increment for stagnation amounting to Rs.1500 at the rate of Rs.375 per increment. With this, his pay in the revised scale should have been fixed at Rs.15750.

(14)

4. Applicant has further alleged that his junior Dr. Mishra on promotion to the post of Deputy Secretary was given notional pay to bring him at the minimum of the revised scale of Rs.12000-16500 and then his pay was fixed at Rs.12750 in the revised scale by giving two increments while the applicant was denied four increments due to him. According to the applicant, his pay should have been fixed at Rs.15750 on the basis of parity and comparable with the pre-revised scale as on 1.1.96 on the principles of natural justice and point-to-point fixation of pay or he should have been given four increments in fixation of pay in the revised scale. Thus, after fixing his pay at Rs.15750, applicant has also claimed arrears with effect from 1.1.97.

5. Learned counsel for the respondents submits that applicant's pay has been fixed rightly as per the formula laid down by the respondents in the resolution dated 30.9.97. He submits that the government has also provided a ready reckoner for pay fixation. According to this also, applicant's pay has been rightly fixed at Rs.13,500 as follows:

Basic pay as on 1.1.96	Rs.5000
DA as on 1.1.96	5550
First Interim relief	100
Second interim relief	500
Total pay+DA+IR as on 1.1.96	11150
40% of basic pay	2000
Total	13150
Revised scale corresponding to existing scale	12000-375-16500
Revised pay as fixed at the stage in the revised scale next above	13500
Pay fixed as on 1.1.96	13500

(B)

In the ready reckoner those drawing Rs.5000 in the pre-revised scale were fixed at Rs.13500 in the new scale as on 1.1.96. This pay fixation has taken into account one stagnation increment also. The learned counsel also denied that the Government has accepted any point-to-point fixation as stated by the applicant. There is no provision in the CCS(Revised pay) Rules, 1997 for point-to-point fixation of initial pay. Therefore, there is no question of grant of that to the applicant. Even the Pay Commission had not recommended point-to-point fixation of initial pay in the revised pay scale as contended by the applicant. Revised pay scale has been extended uniformly to all employees of the Central Government and no junior has been granted higher pay in the revised scale of pay.

6. Further, the learned counsel submits that there is no comparison between the applicant and Dr. Mishra in the matter of fixation of pay. Dr. Mishra was holding the substantive post of Principal in Kendriya Vidyalaya at the time of his appointment as Deputy Educational Adviser (Sanskrit) in the Department of Education on deputation basis with effect from 26.3.97. Dr. Mishra opted for the grade pay of the deputation post. His pay was fixed in the revised pay scale by his parent organisation at the stage of Rs.11625 in the scale of pay of Rs.10000-15200. Therefore, his pay was fixed at Rs.12375 as per Rule 22(I)(a)(i) of the FRs and not revised under 1997 Rules. Therefore both cases are not comparable.

(b)

7. The short question is whether the applicant's pay in the revised pay scale has been fixed correctly or not. For this, the relevant rules are CCS(revised pay) Rules, 1997.

8. According to these rules, the pay in the revised scale has to be fixed by taking into account the total emoluments drawn by the government servant. The basic pay, plus DA, first and second instalments of interim relief admissible on basic pay in the old scale as on 1.1.96. While doing so, if the minimum of revised scale is more than the amount so arrived at, the pay shall be fixed at the minimum of the revised scale. 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. 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/fixed in the revised scale at the same stage, the pay in the revised scale of such of those government servants who are drawing pay beyond the first four consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs by the grant of increments. The same is not applicable in the case of the applicant because bunching involves 4-5 government servants drawing pay at different stages in the pre-revised scale and getting pay fixation in the new scale at same stage. There is another proviso which says that while fixing the pay one should ensure that every employee will get atleast one increment in the revised scale of pay for every three increments including stagnation if any in the pre-revised scale of pay.

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9. The learned counsel for the applicant has made reference to the book "Refresher for Central Government Employees-2000" brought out by Nabhi Publication. In this compilation, an illustration has been given about fixation of pay in the revised pay scale. According to this illustration, a government servant who was drawing a basic pay of Rs.5300 in the pre-revised scale of Rs.4100-S300 ^{had his pay} _{was} fixed at Rs.15,500. As per the formula, it worked out to Rs.13933 and the stage next above this in the revised scale came to Rs.14300. Therefore the pay should have been fixed at Rs.14300. But he ~~had~~ drawing 9 increments in the old pay scale and hence 3 increments were granted to him fixing his pay at Rs.14000 + 1500 = Rs.15500. Since the figure of Rs.15500 happens to be higher than the notional fixation of Rs.14300 arrived at, his pay was finally fixed at Rs.15500.

10. Now let me take the case of the applicant. As per the formula his pay has been arrived at Rs.13150. His pay therefore at next stage in the revised scale has been fixed at Rs.13500. If we take into account the claim of the applicant to consider 7 increments drawn by him, then in the revised scale where the minimum is Rs.12000 and if we add 3 increments it would come to Rs.13125. Applicant has claimed one stagnation increment. It is seen from his own admission that he reached the maximum of the pre-revised scale on 1.12.95. Thus he would have been entitled to stagnation increment only after two years, i.e. 1.12.97. Revised pay scale came into force from 1.1.96. At that time he was not stagnating for more than two years or even one year as

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claimed by the applicant. The pay was to be fixed as on 1.1.96. Therefore this stagnation increment does not come into picture. Applicant claims that he should get 3 increments for 7 increments that were due to him in the pre-revised scale. He would be entitled only to two increments because one increment is given for every 3 increments. Thus he would have been entitled to only two increments as on 1.1.96, which would mean his pay should be fixed at Rs.12000 + two increments of Rs.375 each adding upto Rs.12750. The increments are to be added to the minimum of the pay scale and not the figure of notional pay arrived at as assumed by the applicant. Even after adding 4 or 2 increments it would come to either Rs.13125 or Rs.12750; both are lower to the pay fixation arrived at Rs.13500 by the respondents. Respondents have therefore rightly fixed his pay at Rs.13500. Therefore this fixation cannot be faulted. Thus, the applicant has no case and the OA is devoid of merits. It is therefore dismissed accordingly, but without any order as to costs.

banc. 9-

(Smt. Shanta Shastry)
Member(A)

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