

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 2028/97
New Delhi this the 11th day of August 2000

HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Surender Lal Oberoi,
S/o Shri K.L. Oberoi,
R/o 7/25 A, Vijay Nagar,
Double Storey,
Delhi-110 009.

Applicant

(By Advocate: None)

Vs.

1. Union of India - through

Defence Secretary,
Ministry of Defence,
DHQ P.O.
New Delhi-110 011.

2. Area Acccounts Offier,
T-61 Tigri Road,
Delhi Cantt.
New Delhi.

3. Commandant,
HQ. Technical Group,
E.M.E.,
Delhi Cantt.,
New Delhi-110 010.

Respondents

(By Advocate: Shri Madhav Panicker)

O R D E R (ORAL)

S.R. ADIGE, V C (A)

Applicant impugns Respondents' letter dated 10.2.1995 (Annexure A-1) and seeks a direction to the respondents to merge his two advance increments of Rs. 60/- with his basic pay w.e.f. 1.1.1986 as has been done in the case of certain similarly situated Stenographers so that he can earn DA on his advance increments. He also seeks consequential relief.

2. None appeared for applicant. Shri Madhav Panicker, counsel for Respondents and has been heard. Later applicant's counsel Shri Surinder Singh filed

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written submissions which have been taken on record.

3. Applicant was appointed as L.D.C. on 17.4.79. After passing departmental examination he was promoted as Stenographer Grade III (Rs.330-560). As per respondents' Memo dated 11.12.75 (Annexure I), Stenographers (Ordinary Grade) in pay scale of Rs.330-560 whose shorthand speed was 80 W.P.M. were eligible for grant of two advance increments on qualifying the shorthand test of 100 W.P.M. and 120 W.P.M. respectively. These advance increments were not to be absorbed in future increments.

4. Applicant was granted advance increment of Rs.10/- p.m. on passing 100 W.P.M. in shorthand, which was treated as part of pay vide order dated 5.11.85 and he was granted another advance increment of Rs.10/- p.m. for passing 120 W.P.M. in shorthand which was also treated as part of pay vide order dated 3.12.85.

5. However, in the implementation of the Revised Pay Rules, 1986, advance increments for passing the higher speed in shorthand were not taken into account as part of pay and were treated as additional increments in applicant's case, in view of DP&T's O.M. dated 14.8.89 (Annexure VIII) which states that employees who were in receipt of advance increments prior to 1.1.86 would be allowed an amount equal to lowest rate of increments in the revised scale corresponding to the provisional scale of Rs.330-560

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and these additional increments would not count as pay and allowances, and as emoluments for pension/gratuity.

6. It is not denied that in cases of Smt. S. Kundra, Shri Gurbir Singh and R.N. Arora who were Stenographers like applicant and were granted advance increments prior to 1.1.86^{they} had their pay fixed by taking into account their increments as a part of pay. Respondents, however, state in their letter dated 29.10.93 (Annexure XIV to reply) that this was an inadvertant mistake, but in the light of the O.M. dated 14.8.89 that such cases need not be reopened, it was decided not to reopen these cases, but that can not justify committing the same mistake in applicant's case also.

7. Applicant's counsel in the written arguments has tried to emphasise that in Paragraph 4 of respondents' letter it has been stated that past cases shall not be reopened, and increments granted only on or after 1.1.86 in the revised scale will be treated as a separate element. He contends that as applicant was granted the increments prior to 1.1.86, he is not covered by the aforesaid letter dated 14.8.89.


8. We are unable to agree with this contention. Para 4 of the letter dated 14.8.89 makes it clear that while past cases such as that of Smt. S. Kundra, Shri Gurbir Singh and Shri Arora, where pay fixation had already been done after issue of Revised Pay Rules, 1986, by including their advance increments in


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pay while fixing revised pay would not be reopened, incases such as that of the applicant, where it had not been included as a part of existing emoluments for the purpose of fixation in revised pay scale, it would not now be included. Otherwise there was no meaning in saying that if the additional increments granted prior to 1.1.86 were taken into account as part of existing emoluments for fixation of revised scale, no further increments should be granted in revised scales.

9. It is well settled that applicant has no enforceable legal right to compel respondents to repeat the same mistake in his case, what respondents have committed in the case of Smt. Kundra, Shri Gurbir Singh and Shri Arora, and he cannot press his relief on the basis of any mistake committed by respondents in respect of others.

10. In the result we find no good grounds to interfere in this O.A. which is dismissed. No costs.


(Dr. A. Vedavalli)
Member (J)


(S.R. Adige)
Vice Chairman (A)

Karthik