

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO.997/94

Hon'ble Shri P.T.Thiruvengadam, Member(A)

New Delhi, this 24th day of February, 1995

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Shri Madan Kumar
s/o Shri Pokhar Das
r/o B-220, Yojna Vihar
New Delhi - 92.

.... Applicant

(By Mrs. Meera Chhibber, Advocate)

Vs.

Union of India through

The Secretary
Planning Commission
Yojna Bhawan
New Delhi - 110 001.

.... Respondent

(By Shri Vijay Mehta, Advocate)

ORDER(Oral)

The applicant was functioning as first PA to Member, Planning Commission. The incumbent of the post of Member Planning Commission, happened to hold the charge of Chairman, Indo Japan Study Committee simultaneously. This happened w.e.f. 7.12.1983 and the applicant correspondingly discharged the functions and responsibilities of the post of first P.A. to Member, Planning Commission as well as PS to Chairman, Indo Japan Study Committee (IJS) simultaneously, w.e.f. 7.12.1983. The dual arrangement in relation to the applicant as well as the Member, Planning Commission continued even beyond 31.3.1989 on which the date the applicant reached his age of superannuation. Even after superannuation the applicant continued to perform the same functions on reemployment w.e.f. 1.4.1989. Prior to 1.4.1989, the applicant had been sanctioned a special pay of Rs.300

1

over and above his pay of Rs.3400 in the pay scale of Rs.2000-3500 applicable to first PA to Member, Planning Commission. This special pay of Rs.300 had been sanctioned inrecognition of the additional duties performed by the applicant while simultaneously working as PS to Chairman. On reemployment, the respondent allowed the pay of Rs.3500 in the scale of Rs.2000-3500 applicable to first PA to Member, Planning Commission. But they did not allow any special pay. The applicant had been regularly representing for the grant of special pay since there was no change in the additional duties even after 1.4.1989. Since his representation has been negatived, this OA has been filed with a prayer to direct the respondent to pay a special pay of Rs.300 per month w.e.f. 1.4.1989 along with interest. The relief regarding interest was not however, pressed at the time of final arguments. It was also mentioned the period of ^d _n ^{claim} 1.4.1989 to 24.1.1990 by which the date the dual responsibility ceased.

2. The learned counsel for the applicant referred to the pay fixation order at the time of reemployment, as issued by the respondent. (Page 17 of OA). This pay fixation as first PA at Rs.3500 is not disputed by the applicant. It is however argued that the applicant continued to discharge the additional duties of PS to Chairman, IJSC and the additional amount of Rs.300 which had been paid to him in inrecognition of the additional duties right from 1983 cannot be suddenly stopped.

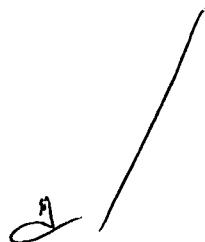
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3. The stand of the respondent is that the pay on reemployment has been fixed in accordance with the CCS (Fixation of Pay of Reemployed Pensioners) orders 1986 (copy at Annexure R.I to the reply). It is mentioned that the fixation from 1.4.1989 has been made keeping in view the maximum of the pay scale of Rs.2000-3500 for the reemployed post. The refixation at Rs.3500 which is the maximum pay admissible under the rules already incorporates Rs.100 towards special pay.

4. I note that the applicant was drawing Rs.3400 at the time of reaching superannuation. The additional amount of Rs.300 had been sanctioned to him since he was discharging the additional duties of PS to Chairman, IJSC in addition to the post of first PA to Member, Planning Commission to which post he had been posted. The amount of Rs.300 over and above the pay of Rs.3400 drawn as first PA to Member, Planning Commission was obviously in view of holding more than one charge. Para 3(2) of CCS (Fixation of Pay Reemployment of Pensioners) order 1986 reads as under:

"3(2) Pre retirement pay means the substantive pay last drawn before retirement (ii) Special pay granted in terms of FR 9(25) shall also be taken into account for determining pre retirement pay.....
.....

Pay drawn for holding more than one charge under FR 49 will not be taken into account in determining pre retirement pay".



5. It is admitted that the additional amount of Rs.300 granted to the applicant was by virtue of his holding more than one charge (Annexure P1). Hence on reemployment the applicant should have been fixed only on Rs.3400 as per para 4 of the order referred above for fixation of pay of reemployed pensioners.

6. The issue remaining to be decided is regarding the grant of additional amount for the continued discharge of the duties of the two posts. It is not disputed that such additional duties continued beyond 1.4.1989 and upto 24.1.1990. No rules were brought to my notice denying the grant of additional payment on reemployment for discharging the duties of a second post. If payment of Rs.300 per month was allowed by the respondent from 1983 till 31.3.1989, there can be no reason for stopping the payment just because the applicant was engaged on reemployment basis. It is not the stand of the respondent that the applicant is not eligible for the special pay of Rs.300 because of retirement. The only argument advanced is that the special pay had got merged at the time of refixation of pay after reemployment. Since I have held that on reemployment the applicant is eligible only for a pay of Rs.3400 and not Rs.3500, the argument that the special pay ~~was~~ ^{had} already taken care of at the time of fixing the pay on reemployment is no more tenable.

7. In the circumstances I direct the respondents to allow a payment of Rs.300 per month over and above the pay of Rs.3400 on reemployment of the applicant from 1.4.1989 till such time the applicant continued to

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16

discharge the duties of the post of PS to Chairman, IJSC over and above his duties as First PA to Member, Planning Commission. This amount should be paid within three months from the date of receipt of this order.

The OA is disposed of as above. No costs.

P. T. Thiru

(P.T. THIRUVENGADAM)

MEMBER (A)

/RAO/