

-9-

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 88/2000

New Delhi this the 28th day of August, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC(J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

Shri A.K. Sharma
S/o Shri Gyaninder Sharma
R/o 125/8 Sector No. 1
Pushp Vihar,
New Delhi

...Applicant

(By Advocate: Shri B.S. Mainee with
Ms. Meenu Mainee)

Versus

Union of India :through

1. The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.
2. The Director General of Works
C.P.W.D., Nirman Bhawan
New Delhi.
3. The Executive Engineer
Pushp Vihar Maintenance Division
C.P.W.D. Room No. 120-C
Pushp Bhawan
New Delhi-110062.
4. The Executive Engineer
Border Fencing Division No. V
C.P.W.D.
Jaiselmer (Rajasthan)

...Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER (Oral)

By Mr. Govindan S. Tampi, Member (A)

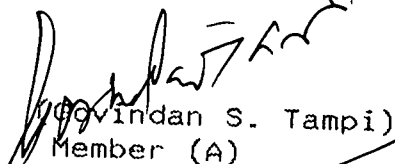
In this application the applicant, who was appointed as a Junior Engineer in CPWD, has challenged the impugned order dated 17.11.99 whereby his pay is sought to be reduced.

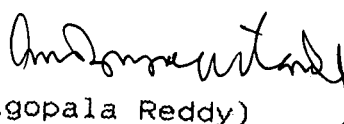
2. After the acceptance of the recommendations of the 4th Pay Commission the applicant was granted the pay scale of Rs.1400-2300 which was revised to Rs. 1640-2900 w.e.f. 1.1.1986. The applicant's pay was fixed at the minimum of the new revised pay scale of Rs. 1640-2900 i.e. at Rs. 1640/-. The annual increment which was due as per the earlier pay scale was given effect from 1.3.1986, and the pay of the applicant was raised to Rs. 1700/-. However, by the impugned order, it was indicated that the increment should have been granted only on completion of one year, i.e., w.e.f. 1.1.87, and by not doing so, while fixing the revised pay as over payment of Rs.32,796/- had taken place, which was to be recovered.

3. Learned counsel for the applicant, Ms. Meenu Mainee contends that as the applicant's pay was fixed at the minimum of the new scale, he was eligible correctly to get his next annual increment which became due from 1.3.1986 and there was no reason whatsoever for postponing the date of increment to 1.1.87 and ordering any recovery. In reply Shri Mahendru, learned counsel for respondents referred to DOPT OM No. 1/2/86-Estt. (Pay-1) dated 22.5.89 and has contended that the applicant was wrongly allowed the increment on 1.3.86 in the revised pay scale and by the impugned order the respondents had only sought to correct the mistake which cannot be disturbed by the Tribunal.

4. We have given our careful consideration to the ^{rival} contentions. It is not disputed that the applicant was granted the revised pay scale of Rs. 1640-2900 with effect from 1.1.1986 and as per his earlier scale his next annual increment was due w.e.f. 1.3.86. The recommendations of the 4th Pay Commission cannot be altered to the disadvantage of the individual concerned. The Hon'ble Supreme Court in the case of Union of India and another Vs. Shyama Pada Sidhanta 1991 Supp (1) SCC 542 has held that when there has been revision of scale, the individual concerned would be entitled to next increment on the normal date of increment in the lower scale and not on the completion of one year regular service in the revised scale. The case before us is squarely covered by the aforesaid decision of the Hon'ble Supreme Court.

5. In the result, the OA is allowed. The impugned orders dated 17.11.99 and 20.12.99 are quashed to the extent relating to the applicant with grant of all consequential benefits. This order be complied with within a period of two months from the date of its receipt. Parties to bear their own costs.


Govindan S. Tampi)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.