

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1190/89

Date of decision: 15.05.1992.

Shri Chandu Singh & Ors. Applicants

Versus

Union of India through Respondents
Secy., Deptt. of Tele-
communications & Anr.

For the Applicants None

For the Respondents Shri P.P. Khurana, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *no*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

This case had appeared in the list of ready cases for final hearing peremptorily. When the case was called, none appeared for the applicants. Shri P.P. Khurana, Advocate, appeared in the afternoon session ^{on 13.5.92} and submitted that the case could be decided on the basis of the counter-affidavit filed by the respondents.

2. We have gone through the records of the case carefully. The applicants have prayed in this application filed under Section 19 of the Administrative Tribunals

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Act, 1985 for the following reliefs:-

- (i) to set aside and quash the impugned office memorandum dated 30.11.1987 issued by the respondents;
- (ii) to set aside and quash the impugned memorandum dated 29.11.1988 whereby the respondents had directed that the Special Pay granted to the applicants is sought to be recovered; and
- (iii) to direct the respondents to grant Special Pay to the incumbents of the headquarters post like the applicants without placing any ceiling.

3. The case of the applicants in brief is as follows. They are Group 'A' officers posted in the headquarters of the Department of Telecommunications. On the basis of the recommendations of the Third Pay Commission, the Government decided that officers of Group 'A' Non-technical, Technical, Scientific and Engineering services, when posted to the Headquarters organisation of the department concerned, would be entitled to the following rates of Special Pay:-

"Officers in the senior scale (revised scale Rs.1100-1600.)	Rs.200/- p.m. Special Pay
Officers in the Junior Administrative/Intermediate Administrative Grades (Revised scale:Rs.1500-1800/ 2000/1500-2000)	Rs.300/- p.m. Special Pay."

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4. The grant of Special Pay at the rates indicated above was subject to the condition that the pay plus Special Pay does not exceed Rs.1700 in the case of senior scale officers and Rs.2250/- in the case of officers in Junior/Intermediate Administrative Grades. It was also added that as and when a Selection Grade is created in the scale of Rs.2000-2250, in any of the services mentioned above, the officers of that grade, when posted in their respective Headquarters organisations, shall also be eligible for the grant of Special Pay as for administrative grades, subject to their pay and Special Pay not exceeding Rs.2250/-.

5. The above orders were not applicable to officers of services the cadres of which consist only of posts at the headquarters organisation as also to officers of services who are not entitled to any Special Pay while posted as Under Secretary/Deputy Secretary or Director in the Central Secretariat.

6. Thereafter, the Fourth Pay Commission recommended that the existing rates of Special Pay wherever admissible, may be doubled subject to a ceiling of Rs.500/- per month. This was accepted by the Government in their O.M. dated 29.9.1986.

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7. However, subsequently on 30.11.1987, the Department of Personnel & Training issued an Office Memorandum whereby the rate of Special Pay was fixed as under:-

"Officers in Junior Administrative Grade/Selection Grade (Rs.3000-5000)	Rs.400/- p.m. Special Pay subject to the condition that Grade Pay plus Special Pay shall not exceed Rs.4500.
Officers in Junior Administrative Grade/Selection Grade (Rs.3700-5000 and Rs.4500-5700)	Rs.500/- p.m. Special Pay subject to the condition that Grade Pay plus Special Pay shall not exceed Rs.5850.

8. Thereafter, the Department of Telecommunications issued memorandum dated 29.11.1988 for the recovery of over-payment from 19 officers, including the applicants before us.

9. The applicants have stated that as the Fourth Pay Commission had recommended doubling of the Special Pay subject to the ceiling of Rs.500/- per month and as the said recommendation had been accepted by the Government in their memorandum dated 29.9.1986, the impugned O.M. dated 30.11.1987 issued by the Department of Personnel & Training proposing to put a ceiling on Special Pay, as indicated above, is opposed to the rationale for the grant of Special Pay. They have also alleged that similarly placed officers in the Office of the Chief General Manager (Telecom/Telephones) are receiving Special Pay without any ceiling which is unjust and discriminatory.

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10. The respondents have stated in their counter-affidavit that the officers posted in field units are being paid Special Pay under F.R.9(25) in consideration of the special arduous nature of the duties or addition of work or responsibility, whereas the Special Pay at the headquarters is being paid for compensating the officers coming from field formations to the headquarters in view of the disturbance involved to them. The respondents have stated that the Third Pay Commission had imposed a ceiling on the grant of Special Pay.

11. The respondents have sought to justify the ceiling imposed by the impugned O.M. dated 30.11.1987 on the ground that the officer on tenure posting in the headquarters should not get more than the pay of the officer in the higher post. Accordingly, the ceiling of Rs.4500/- for the officers of senior time-scale and Rs.5850/- for officers of J.A.G./S.G. have been fixed. They have stated ^{that} ~~earlier~~ also the ceiling of Rs.2250/- was prescribed for officers of J.A.G./Intermediate Grade as Level II of S.A.G. started with Rs.2250/-. Likewise, a ceiling of Rs.1700/- was prescribed for the officers of senior time-scale as officers in J.A.G. also drew a minimum of Rs.1800/- inclusive of Rs.300/- headquarters Special Pay.

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12. According to the respondents, the scheme of headquarters Special Pay for officers of organised Group 'A' Services posted at the headquarters organisation was introduced on the recommendation of the Third Pay Commission on the analogy of the scheme of Special Pay being allowed to All India officers and organised Group 'A' services officers posted in the Central Secretariat on tenure basis as Under Secretary/Deputy Secretary/Director.


13. In our opinion, the mere fact that the Government accepted the recommendation of the Fourth Pay Commission and decided that the existing rate of Special Pay wherever it already existed, be doubled subject to the ceiling of Rs.500/-, does not confer any legal right on the applicants to claim Special Pay subject to the ceiling of Rs.500/-. By the impugned memorandum dated 29.11.1988, the applicants were given increment at the stage of Rs.4125 w.e.f. 1.1.1988 with Special Pay of Rs.400/-. In view of this, the Department of Telecommunications directed to reduce their Special Pay to Rs.375/- and to effect recovery of over-payment.

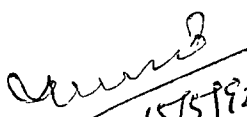
14. We do not see any unreasonableness in the impugned order dated 30.11.1987 issued by the respondents fixing a ceiling on the rate of Special Pay in respect of various categories of officers who were entitled to the

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same. The proposed recovery by the memorandum dated 29.11.1988 cannot also be faulted. We see no reason to disbelieve the version of the respondents that the officers of the Office of the Chief General Manager (Telecom/Telephones) and others similarly placed are drawing Special Pay under F.R.9(25) at the prescribed rates taking into account the nature of their respective duties. This is neither unjust nor discriminatory.

15. In the conspectus of the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. There will be no order as to costs.


(I.K. Rasgotra) 15/5/92
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)