

(B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1882/1989

DATE OF DECISION: 11.10.1991

SHRI P.K. SHARMA & OTHERS

...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

THE HON'BLE JUSTICE MR. AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS

SHRI S.K. BISARIA, COUNSEL

FOR THE RESPONDENTS

MRS. AVNISH AHLAWAT, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

Shri P.K. Sharma and six other Language Teachers of Delhi Administration, in this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, have raised the issue of anomalous fixation of pay as on 1.1.1986, in accordance with the recommendation of the Fourth Central Pay Commission, where a junior Language Teacher is getting higher rate of pay than the senior Language Teacher. To illustrate their point, the fixation of pay of Shri P.K. Sharma, seniority list No.233 has been compared with Shri B.S. Narang, seniority list No.237, as on 1.1.1986.

The scales of pay applicable to the Language Teachers prior to 1.1.1986 and as on and after 1.1.1986 are given below:-

S.No.	Designation	Grade before 1/1/86	Grade after 1/1/86
1.	Language Teacher	Rs.440-20-500-EB-25- 700-EB-25-750.	1400-40-1600-50- 2300-EB-60-2600
2.	TGT	-do-	-do-

Selection Grade

2

3. Language Teacher/ Rs.740-35--880 1640-60-2600-EB-75-2900.
TGT
4. PGT Rs.550-900 -do-

Brief service particulars of one of the applicants, Shri P.K. Sharma in juxtaposition with his junior, Sh. B.S. Narang are given below:

Shri P.K. Sharma		Shri B.S. Narang	
Design.	D.O.A.*		Pay scale
1. Language Teacher	5.9.1961	23.10.1961	Rs.170-380 Rs.440-750 w.e.f.1.1.1973.
2. Selection Grade	1.3.1976		Rs.740-880
3. Post-Graduate Teacher	17.9.1983	31.1.1986	Rs.550-900
Pay fixed at Rs.950 (Rs.900+Rs.50 as personal pay).			

* Date of appointment.

2. Shri P.K. Sharma was fixed at Rs.950/- (Rs.900 + Rs.50 personal pay) on promotion as Post-Graduate Teacher (PGT for short). His pay was revised on 1.1.1986 in the grade of Rs.1640-2900 at Rs.2750/- while the pay of Shri B.S. Narang was fixed at Rs.2900/-. The applicants, therefore, allege arbitrary discrimination among the similarly situated persons in violation of Articles 14, 16, 21 and 39 (d) of the Constitution of India. They contend that their initial pay has to be fixed in accordance with Rule-7 of CCS (Revised Pay) Rules, 1986. Of particular interest, are proviso-3 and proviso-4 under Rule-8 of CCS (Revised Pay) Rule, 1986, which are reproduced below:-

"8.Date of next increment in the revised scale.--The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub-rule (1) of Rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale....."

"Provided also that in the case of persons who had been drawing maximum of the existing scale for more than a

2

15

year as on the 1st day of January, 1986, next increment in the revised scale shall be allowed on the 1st day of January, 1986:

Provided also that in the case of Government servants- who were in receipt of ad hoc increment on their stagnating for more than two years at the maximum of the existing scale of pay as on 1st day of January, 1986, one more increment in the revised scale shall be allowed to them on the 1st day of January, 1986, in addition to the increment already allowed under the preceding proviso."

They further submit that in pursuance of the CCS (Revised Pay) Rules, 1986 instructions were issued by the Ministry of Human Resource Development, Department of Education vide F.No.165/85-UTI dated 10th November, 1986 to Respondent No.2. The relevant extract from the said circular letter reads:-

"3.Now in view of provisions 3 and 4 of the Rule 8 of CCS (RS) Rules, 1986, it has been decided that the teachers, etc. who have been allowed the benefit of ad-hoc increments in the existing scales may be allowed next increments (upto 4) in the revised scale of the 1st day of January, 1986 in the following manner subject to the condition that the pay so increased does not exceed the maximum of the revised scale:-

(iv) In the case of teachers, etc. who are in receipt of three ad-hoc increments on their stagnating for more than 4 years at the maximum of the existing scale of pay, as on the 1st day of January, 1986, four increments in the revised scale may be allowed on the 1st day of January, 1986."

The applicants, therefore, pray that their pay should be fixed at Rs.2900/- at the same level at which stage the pay of their junior was fixed as on 1.1.1986.

3. The respondents in their reply generally admit the position and submit that the pay of the applicants and pay of

2

Shri B.S. Narang have been fixed correctly in accordance with the rules. They point out that the anomaly has arisen on account of the fact that while Shri P.K. Sharma was promoted as PGT on 17.9.1983 prior to Fourth Central Pay Commission's report, Shri B.S. Narang had been promoted after 1.1.1986, i.e. the date on which the recommendations of the Fourth Central Pay Commission were given effect to. Consequently, Shri P.K. Sharma and other applicants have not received the benefit of stagnation increments as they were promoted on 17.9.1983. On the other hand, Shri B.S. Narang who was promoted as P.G.T. after 1.1.1986 was granted stagnation increments as provided in Department of Education's letter of 10.11.1986. The pay of both the persons had to be fixed on 1.1.1986 taking into consideration the actual emoluments drawn by the incumbents in accordance with CCS (Revised Pay) Rules, 1986. The respondents have further drawn our attention to Ministry of Human Resource Development (Department of Education) letter No. F.5-165/86-UT.I dated 8th January, 1990, which permits stepping up of the pay of the senior teachers to the level of the junior teachers promoted after 1.1.1986 subject to fulfilment of certain conditions stipulated therein as they expect that the problem will now be resolved.

4. The learned counsel for the applicant expressed his reservations in regard to the above submissions of learned counsel for the respondents.

5. In view of the reservations expressed by the learned counsel for the applicant, we directed the respondents to furnish the record of fixation of pay of Shri P.K. Sharma, one of the applicants and Shri B.S. Narang, his junior, who was promoted after 1.1.1986 and whose case has been cited by the applicants as an illustration to highlight the anomaly in the fixation of pay. These records have since been made available.

2

6. We have gone through the record of fixation of pay of Shri P.K. Sharma, the applicant and Shri B.S. Narang, one of his juniors promoted subsequent to 1.1.1986 and considered the submissions made by the learned counsel very carefully. The milestones in pay fixation of Shri P.K. Sharma, applicant and Shri B.S. Narang, one of his juniors are given below:

Scales of Pay	P.K. Sharma		B.S. Narang	
	Date of appointment	Basic Pay	Date of appointment	Basic Pay
Rs. 170-380	05.09.61	Rs. 170/-	23.10.61	Rs. 170/-
Rs. 190-450	21.12.67	Rs. 240/-	23.10.68	Rs. 240/-
Rs. 220-500	27.05.70	Rs. 270/-	27.05.70	Rs. 270/-
	21.12.70	Rs. 280/-	23.10.70	Rs. 280/-
Rs. 250-550	27.05.70	Rs. 270/-	27.05.70	Rs. 270/-
	11.10.70	Rs. 290/-	23.10.90	Rs. 290/-
<u>THIRD PAY COMMISSION W.E.F. 1.1.1973</u>				
Rs. 440-750	01.01.73	Rs. 550/-	01.01.73	Rs. 550/-
	11.10.73	Rs. 575/-	23.10.73	Rs. 575/-
Rs. 550-900	17.09.83	Rs. 780/-	(TGT upto 31.1.1986)	
	(promoted P.G.T.)			
<u>SELECTION GRADE OF RS. 740-880/- introduced w.e.f. 1.3.1976</u>				
Rs. 740-880	01.03.76	Rs. 740/-	01.03.80	Rs. 740/-
	01.03.80)	Rs. 880/-	01.03.82	Rs. 880/-
	01.03.82)			
	05.09.82	Rs. 880+35/-	05.09.82	Rs. 880+35/-
	01.09.83	Rs. 880+70/-	01.09.83	Rs. 880+70/-
<u>FOURTH PAY COMMISSION W.E.F. 1.1.1986</u>				
Rs. 1640-2900	01.01.86	Rs. 2750/-	01.01.86	Rs. 2825/-
	(fixed as P.G.T. taking pay as Rs. 900 + 50/)		(Fixed as TGT Sel. Grade taking pay as Rs. 880+70)	
			31.01.86	Rs. 2900/-
			(Promoted P.G.T.)	

21

21

It will be seen from the above chart that S/Shri P.K. Sharma (applicant) and B.S. Narang (junior) were drawing the same pay viz. Rs. 880/-+Rs.70/-(two stagnation increments) as on 1.9.1983. On 17th September, 1983 Shri Sharma was promoted as P.G.T. and his pay was fixed at Rs. 900/-+Rs. 50 Personal Pay as his Pay + Stagnation Increments was amounting to more than Rs. 900/-, which was the maximum of the scale, Rs. 550-900/- allotted to the P.G.T. prior to the implementation of the Fourth Pay Commission. Shri P.k. Sharma's pay was fixed on 1.1.1986 taking

i) Basic Pay	Rs. 900.00
ii) DA+ADA+Adhoc DA	Rs.1342.00
iii) Interim Relief	Rs. 160.00
iv) 20% of the basic pay	Rs. 180.00
v) Total	Rs.2582.00
vi) Next stage in the scale of Rs. 1640-2900	Rs.2600.00

8. According to Rule 8 of the CCS (Revised Pay) Rules, 1986, persons who have been drawing maximum of the existing scale for more than a year as on the first day of January, 1986, next increment in the revised scale is to be allowed on the first day of January, 1986. The said rule further provides that in the case of government servants who are in receipt of an adhoc increment on their stagnating for more than two years at the maximum of the existing scales on the first day of January, 1986, one more increment in the revised scales shall be allowed to them on the first day of January, 1986 in addition to the increment already allotted as above. Thus a Government servant who had stagnated for more than 2 years at the maximum the existing scale of pay as on 1.1.1986, became entitled to two increments in the revised scales as on the first day of January, 1986.

2

19

9. Accordingly Shri P.K. Sharma received two increments at the rate of Rs. 75.00 per annum in the revised scale in addition to his revised pay of Rs. 2600/- in the pay scale of Rs. 1640-2900/ raising his pay to Rs. 2750/- as on 1.1.1986. On the other hand Shri B.S. Narang as on 1.9.1983 was in the selection grade T.G.T. of Rs. 740-880/-. His pay was Rs. 880/-+70/- and as on 1.1.1986 he was fixed as under:

i) Basic Pay	Rs. 880.00
ii) DA+ADA+Adhoc DA	Rs.1314.40
iii) Interim Reliefs	Rs. 158.00
iv) 20% of basic pay	Rs. 176.00
v) Total	Rs.2528.40
vi) The next stage in the scale of Rs.1640-2900	Rs.2340.00

According to Ministry of Human Resources Development (Department of Education) letter No. F.5-Pay/86-UT dated 10th November, 1986, Item No. IV, in the case of teachers etc. who are in receipt of three adhoc increments on their stagnating for more than 4 years, at the maximum of the existing scale of pay, as on 1.1.1986, four increments in the revised scale may be allowed on 1.1.1986. The above increments will be allowed after fixation of pay in the revised scales, in accordance with the formula recommended by the Fourth Central Pay Commission. Accordingly Shri B.S. Narang was granted four increments in the revised scale of Rs. 1640-60-2000-EB-60-2360-EB-60-2600-75-2750EB-75-2900. Shri B.S. Narang was accordingly granted next four increments, as stated above amounting to (Rs. 60+75+75+75) Rs. 285/ thereby raising his pay to Rs. 2540+ Rs. 285/ = Rs. 2825/. He was promoted as PGT

2

on 31.1.1986 in the scale of Rs. 1640-2900 and his pay on that date was fixed at the next stage, i.e. Rs. 2900/-. Thus Shri B.S. Narang, who is junior to Shri P.K. Sharma, received the pay of Rs. 2900/- in the revised scale as on 31.1.1986 (Rs. 2825/- as on 1.1.1986) and Shri P.K. Sharma, the applicant was fixed at Rs. 2750/- on 1.1.1986. This anomaly has arisen on account of the promotion of Shri P.K. Sharma on a date prior to 1.1.1986 and Shri B.S. Narang on 31.1.1986 to the grade of P.G.T. and the decision of the Government in 1986 to grant increments (upto 4) in the revised scale of pay to the teachers on their stagnation at the maximum of the existing scale.

10. In our view the above anomaly should get resolved in view of respondent's letter No. F.5-165/86-UT dated 8th January, 1990. The relevant extract of this letter is reproduced below:-

There are teachers promoted from TGT to PGT, PGT to V. Principal and V. Principal to Principal during 1983-85 who are getting less pay than the persons promoted in the subsequent years. These teachers would have normally got more pay than their juniors but for the grant of four additional increments in the new pay scales.

2. The matter has been examined in consultation with the Ministry of Finance and it has been decided that the pay of Primary school teachers promoted to trained graduate teachers; trained graduate teacher promoted as post-graduate teachers; post graduate teachers promoted as V. Principals or V. Principals promoted as Principals or other miscellaneous categories of teachers placed in similar situation and promoted before 1.1.1986, their pay may be stepped to equal to the junior teachers promoted

d

after 1.1.1986 subject to the fulfilment of the following conditions:-

- a) The senior Teacher promoted before 1.1.86 was drawing equal or more pay with same or earlier date of next increment than junior teachers in the same scale on the date of promotion.
- b) Had the senior teacher not been promoted before 1.1.1986, and promoted after 1.1.86 only, he would have drawn equal or more pay than the junior teacher promoted after 1.1.1986.

The stepping up of pay be allotted from 1.1.1986 or from the date juniors started drawing more pay than senior, whichever is later. This issues with the approval of Ministry of Finance, Department of Expenditure vide their D.O. No. F.1(2)(6)E3/8 dated 19.12.1989."

11. The only question that would arise is whether the pay of Shri P.K. Sharma and similarly situated teachers, who are applicants before us, should be stepped upto the level of Rs. 2900/- as on 1.1.1986 or from 31.1.1986, the date on which Shri B.S. Narang's pay was fixed at Rs. 2900/.

12. We are, of the view that in the interest of justice and to avoid any future anomaly arising from the date of increment in the scale of pay, the pay of Shri P.K. Sharma, the applicant should be stepped to Rs. 2900/- as on 1.1.1986, which to our mind is also appears to be the intention of the respondents as evidenced from the first sentence of the extract of their letter dated 8.1.1990 given above.


13. On the above conspectus of the case we order and direct the respondents to review the fixation of pay of the applicant Shri P.k. Sharma as on 1.1.1986 and step up the same to the stage of Rs. 2900/- as on 1.1.1986 since he fulfils the conditions stipulated in the respondent's letter dated 8th January, 1990 referred to above.


d

We further direct that the cases of the remaining six applicants, which have not been discussed in detail but who are similarly situated as Shri P.K. Sharma, should also be reviewed and their pay stepped up as on 1.1.1986 on the same basis as has been ordered to be done in the case of Shri P.K. Sharma.

The respondents shall implement the above order within 8 weeks from the date of its communication.

The OA is disposed of as above with no orders as to costs.


(I.K. Rasgotra)
Member (A) 11/10/91


(Amitav Banerji)
Chairman

/SSM/