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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

D.A.No.2458/1989

New Delhi, This the 06th June of 1994

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

A. Neelakantan
E-10/2 Lab Quarters
Post Office Kanchan Bagh
Hyderabad : 500 258

..Applicant

By Shri C Hari Shankar, Advocate

Versus
V

Union of India
through the Secretary
Ministry of Home Affairs
North Block
New Delhi.

..Respondent

By Shri M K Gupta, Advocate

O R D E R (oral)

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

1. The applicant retired as Joint Secretary in the Ministry of Law on 30.6.1983. Thereafter he was re-employed as a Director in the Commission on Centre State Relations with effect from 21.2.1984 and he continued in that post till Oct 1987. From 1.1.1986 revised pay scales were introduced based on the recommendations of the Fourth Pay Commission. The pay fixation after 1.1.1986 based on the various office memoranda has been challenged in this DA.
2. Fixation on re-employment from 1984 was based on the basic order which lays down the principles as under:-

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(a) Re-employed pensioners should be allowed only the prescribed scale of pay, that is no protected time-scales such as those available to pre-1931 entrants should be extended to them.

(b) The initial pay, on re-employment, should be fixed at the minimum stage of the scale of pay prescribed for the post in which an individual is re-employed.

(c) In addition to (b) above the Government servant may be permitted to draw separately any pension sanctioned to him and to retain any other form of retirement benefit for which he is eligible.

provided that the total amount of initial pay as at (b) above, plus the gross amount of pension and/or the pension equivalent of other forms of retirement benefit does not exceed:

(i) the pay he drew before his retirement pay, or

(ii) Rs. 3500/whichever is less.

3. According to the above principals at the time of re-employment in Feb 84 the applicant was fixed at the minimum of the pay scale ^(Rs.2000-2250) applicable to the re-employed post less Rs.440 (The amount of Rs.440 being the difference between the pay last drawn i.e Rs.2750/-

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and sum of the minimum pay, pension of Rs.960/- and Pensionary equivalent of Rs.230/-). Thus he was allowed an amount of Rs.2000-Rs.440/- = Rs.1560/-. Other allowances as eligible were also permitted.

4. After 1.1.86 the pay scales got revised and on re-employment his scale of pay was Rs.4500-150-5700 in lieu of Rs.2000 - Rs.2250. The basic principles for fixation of pay at the time of re-employment quoted supra had to be necessarily re-interpretted since the applicant ^{was} in the pre-revised scale and option was given to fix in the revised scale of re-employment as the re-employment continued even after 1.1.1986.

Office memorandum dated 9.12.1986(Annexure A-2)

dealt with method of fixing the reemployment pay from 1.1.86 in cases similar to the applicant. This memorandum was however modified by the office memorandum dated 11.9.87. The effect of these two memoranda was to re-compute the basic pay of the applicant in the new pay scale. The respondents have given the details of re-fixation as under:

"2. He opted for revised scale with effect from 1.1.86 with the side that his pay should be fixed with reference to the minimum of revised scale for Joint Secretaries i.e. Rs.6700/-

3. His pay in the Revised scale for Directors(Rs.4500-150-5700) has been fixed as under:-

Emoluments as on 1.1.86

1. Basic Pay	.. Rs.2000/- (-) 440
2. DA/ADA on basis pay.	.. Rs.1860/-
3. Interim Relief admissible on Basic Pay	Rs. 280/-
Total	Rs.4140/-
Add 20% of Basic pay	Rs. 400/-
	Rs.4540/- (-) 440

scale 4500-150-5700
pay fixed as Rs.4650/- (-) 440/-

4. Increase in pension 803
Net pay fixed in the revised scale

..Rs.4650-440-803
=Rs.3407 w.e.f 1-1-86

5. At the time of argument the ld. counsel for the applicant mainly laid stress that the basic principles on fixing the pay at the time of re-employment have been given a go-by as per this interpretation. It was explained by him that the computation of pension after taking into account the revised pension from 1-1-86 goes against the basic principles. It was also felt that for the purpose of arriving at the ceiling, the pay last drawn by the applicant which happened to be the maximum in the scale of Rs.2500-2750 should for all purposes be treated as equivalent to Rs.6700/- in the new scale since after the Fourth Pay Commission the scale of Joint Secretary is Rs.5900-6700.

6. The ld. counsel for the applicant further elaborated as under:

The minimum in the re-employment scale being Rs.4500/- and the revised pension being Rs.1763/- and PEG being Rs.230/- the sum of these three works to less than Rs.6700/- which is the maximum point in Joint Secretary's scale. It is his claim that the reemployment pay after 1-1-86 thus should be Rs.4500/-.

7. Having heard both the counsels I note that the basic principles of fixation of pay on re-employment could be applied in toto only when the pay scales are both pre-revised or revised at the time of retirement and subsequent re-employment. During the transitional stage when officers retired in the pre-revised scale have to be re-employed in the revised scale the basic principles have to be

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recast which is exactly what has been done in the office memoranda dated 9-12-86 and 11-9-87. The ld. counsel for the respondents cited O.A.No.369/1989 decided by the Madras Bench of this Tribunal on 31-10-89 to the effect that O.M. dated 11-9-87 is not discriminatory in character. This apart the claim of the applicant that for the purpose of arriving at the ceiling, the amount of Rs.6700/- (which is relevant only for the revised pay scale) should be taken into account cannot be sustained since the applicant retired in the pre-revised scale and the new equivalent scales are not relevant to the last pay drawn by him. The pay fixation has been done strictly in accordance with the memoranda dated 9-12-87 and 11-9-87 and hence this cannot be faulted. It is not in dispute that after fixation the applicant was drawing the basic pay of Rs.3407/- from 1-1-86 as against Rs.1560/- prior to this date. Comparison with those retired after 1-1-86 and subsequently got reemployment has no relevance to this case.

8. Under these circumstances the O.A. is dismissed. No costs.

P.T. Thiruvengadam
(P.T. THIRUVENGADAM)
Member(A)