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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 351 of 1989

This 25th day of February, 1994

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

O.P. Sharma,
S/o Late Shri B.D. Sharma,
160-161, Mohalla Gurhai,
Circular Road, Shahdara,
Delhi - 32

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Applicant

By Advocate: Applicant in person

VERSUS

Union of India, through

1. The Secretary,
Ministry of Agriculture & Cooperation
Department of Agriculture,
Directorate of Economics & Statistics,
Krishi Bhavan,
New Delhi.
2. The Secretary,
Ministry of Personnel,
Nirvachan Sadan,
New Delhi.
3. The Chief Controller of Accounts,
Department of Agriculture,
Krishi Bhavan,
New Delhi.
4. The Secretary,
Department of Expenditure,
Ministry of Finance,
North Block,
New Delhi.

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Respondents

By Advocate: Shri M.L. Verma

ORDER (Oral)
(BY Hon'ble Mr. J.P. Sharma, Member (J))

The applicant was working as Technical Assistant Incharge in the Ministry of Agriculture by virtue of an order dated 17.4.1984. Subsequently by the order dated 7th February 1989 issued by the Pay & Accounts Office, Department of Agriculture, the special pay was regularised in terms of the recommendations of the 4th Pay Commission w.e.f. 1.1.1986 and it was directed by the Government of India that all the cases of special pay may be examined and the element of special pay being drawn through salary bills till now may be discontinued till decision/sanction of Ministry/Department is forwarded. As a consequence thereof the special pay of the

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applicant was stopped and the recovery of the amount paid in excess was ordered to be effected after the recommendations of the 4th Pay Commission. The applicant made a representation in June 1988 and stated therein that if the orders are to stop payment of special pay of all categories of employees of the Directorate of Economics & Statistics, then why the computers, GMOs, Supervisors, Section Officers are being paid this special pay, except the Technical Assistant (Incharge). The applicant filed this application on 14.2.89 and interim relief was granted to him by the order dated 17.2.89 that recovery of special pay paid to him at the rate of Rs.40/- per month be not recovered which shall be subject to the outcome of this OA. However, the Tribunal did not specifically direct the respondents to continue paying special pay to the applicant.

2. Relief claimed in this application by the applicant is that final decision be taken by the respondents on his grievance which is pending since 25th September, 1987.

3. The reply filed by the respondents goes to show that the applicant is not entitled to any relief as the Pay & Accounts Office has already allowed the applicant to draw special pay upto April 1989 by which time a decision was likely to be reached. The applicant has also stated before us that he has been paid special pay @ Rs.80/- per month on the recommendations of the 4th Pay Commission. The replacement scale of Rs.425-700 is Rs.1400-2300 in the recommendations of the 4th Pay Commission and in case of the special pay it has been enhanced from Rs.40/- to Rs.80/- p.m.

4. We have heard the learned counsel for the respondents also who stated that the application is only for a direction to the respondents to expeditiously dispose ^{of} the matter of payment of special pay to the applicant which was stopped by the impugned


order dated 7th February 1989. Thus the application has become infructuous.

5. The applicant who appeared in person has admitted that he has been paid special pay but the element of special pay was not taken into account while fixing his pension on the last pay drawn. Neither any such representation has been made to the respondents nor any such prayer has been made in this application. He also desired to amend the application but that will not be considered as it will change the whole nature of the earlier application which the applicant filed for disposal of his representations only. After retirement of the applicant in the year 1992 there shall be a different cause of action which was not available to him when he filed the present OA in 1989. The oral request of the applicant for amendment of the OA therefore cannot be favourably considered.

6. The applicant also prays for sympathetic consideration that the pensionary benefits of other similarly retired employees have been fixed taking into account the element of special pay. The applicant is free to pursue the matter with the respondents, if so advised. But we cannot grant him relief on that account.

7. The applicant has also asserted that he should be given higher pay-scale of Rs.1640-2900 but this will be a cry for moon as the replacement scale of Rs.425-700 is Rs.1400-2300 on the basis of recommendations of the 4th Pay Commission.

8. The application is totally devoid of merit and hence it is dismissed leaving the parties to bear their own costs.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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