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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1352 of 1988  
T.A. No.

DATE OF DECISION 5.9.89

P.P. SHARMA Applicant (s)

Shri Sant Lal, Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

Shri P.P. Khurana Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. MATHUR, VICE- CHAIRMAN

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri P.P. Sharma, Asstt. Director General, Directorate of Posts, New Delhi, against impugned orders No. 2-33/87-PAP dated 21.7.87 issued by the Department of Posts, New Delhi (Annexure-A.1 to the application) regarding revision of option from 1.1.1986 to 1.4.1986 for the revised scale of pay introduced under CCS (Revised) Pay Rules, 1986 for Group 'A' Officer.

2. Brief facts of the case, as stated by the applicant, are that the applicant joined the Deptt. of Posts as a Postal Assistant in Delhi Circle on 1.10.1955 and was promoted as Inspector of Post Offices during 1965. He was again promoted to Postal Superintendents Service in Group 'B' in December, 1980. The applicant was appointed to officiate in the Junior Time Scale of Indian Postal Services Group 'A' on ad hoc basis from July, 1982. He was further promoted to Senior Time Scale of IPS Group 'A' on ad hoc basis from 1.5.1985. The applicant was, however, appointed in Junior Time Scale of I.P.S. Group 'A' on regular basis vide Ministry of Communications letter No.4-9/96-SPG dated 24.2.86. He was also appointed to officiate

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in the Senior Time Scale of IPS Group 'A' under the said orders (Annexure A.3). The P.M.G., Delhi Circle, vide his Memo dated 26.2.86 ordered the applicant who was officiating as Asstt. P.M.G. in Circle Arrangement to continue as APMG (Staff) in the Senior Time Scale of I.P.S. Group 'A' on all-India basis in pursuance of the Department of Posts Orders dated 24.2.86 (Annexure A-2 to the application). The pay of the applicant in the Senior Time Scale of IPS Group 'A' was fixed in the revised scale of pay on 1.1.1986 (3000-4500) at the stage of Rs. 3100/- with the date of next increment as 1st May, 1986. The 4th Pay Commission had recommended introduction of revised scales of pay for the various grades of the Central Government employees and other service conditions w.e.f. 1.4.1986, but the Govt. of India was pleased to enforce the recommendations of the Pay Commission w.e.f. 1.1.1986. The CCS (Revised Pay) Rules, 1986 issued by the Department of Expenditure vide their notification dated 13.9.86 contained :

the following explanatory memorandum:

"Even though the Commission has suggested the revision of pay scales from 1st April, 1986, the Government has decided to give effect to such recommendations from 1st January, 1986 in order to provide greater benefit to the Government servants in general. Accordingly, the rules are being given retrospective effect from January, 1986. It is certified that the retrospective effect being given to these rules will not affect adversely any employee to whom these rules apply."

The Central Civil Services (Revised Pay) Amendment Rules, 1987 issued by the Ministry of Finance vide their notification dated 13.3.1987 regarding implementing the recommendations of the 4th Pay Commission with respect to pay scales of Group 'A' Services/Posts also contained the same provision that the retrospective effect being given to the Pay Rules would not affect adversely any employee to whom these rules apply. The implementation of the recommendations of the Pay Commission with retrospective effect from 1.1.86 affected the applicant adversely in that had the recommendations <sup>been</sup> implemented w.e.f. 1.4.1986, as suggested by the Commission, the pay of the applicant would have been fixed at the stage of Rs. 3300/- in the Sr. Time Scale (Rs. 3000-4500) of IPS Group 'A' w.e.f. 1.4.86 instead of

Rs. 3100/- with date of next increment as 1.2.1987. The applicant was drawing Rs. 1150/- as basic pay in the pre-revised scale of Rs. 1100-1600 on 31.12.85 and his pay in the revised scale of Rs. 3000-4500 was fixed at the stage of Rs. 3100/- with date of next increment as 1.5.86. Since the applicant was appointed in Junior Time Scale on regular basis and in Senior Time Scale on all India basis w.e.f. 27.2.86, he was entitled to the benefit of concordance table. Consequently, his pay would be fixed in the pre-revised scale of Rs. 1100-1600 on 26.2.86 at the stage of Rs. 1300/- and in the revised scale of Rs. 3000-4500 at the stage of Rs. 3300 with DNI as 1.2.87. in case option from 1.4.86 is allowed as suggested by the Pay Commission as the date of effect of their recommendations. In this way the application of revised scale of pay with retrospective effect from 1.1.86 has affected <sup>as this</sup> the applicant adversely by way he has been losing Rs. 200/- for the first month and Rs. 100/- for the remaining eleven months of the year on recurring basis in the basic pay besides D.A. and other allowances. The applicant submitted his representation to the Secretary, Ministry of Finance (Deptt. of Expenditure) and Pay Commission Cell on 24.3.87 through the Department of Posts requesting to allow for exercising option for revised pay scales from 1.4.1986 to secure the benefits as recommended by the Pay Commission. But the most reasonable request of the applicant has been rejected vide Department of Posts letter dated 21.7.87 (Annexure A-1). The grounds urged by the applicant are that the impugned orders are arbitrary, illegal and against the accepted principles of providing greater benefits to the employees to implement the revised scales of pay with retrospective effect. The denial of the right of option from 1.4.1986 is against the letter and spirit of the policy of the Govt. as contained in the explanatory memorandum under the CCS (RP) Rules, 1986 and CCS (RP) Amendment Rules, 1987 issued under notifications dated 13.9.86 and 13.3.1987. The action of the respondents is discriminatory and violative of Articles 14 and 16 of the Constitution in as much as several other employees have been provided greater benefits by giving retrospective effect to the recommendations of the Pay Commission while the applicant has been denied the benefits of option revised scale of pay from the date suggested by the Pay Commission.

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3. The respondents in their reply <sup>have</sup> stated that the date of effect as 1.4.86 as recommended by the Pay Commission was only a recommendation of the Pay Commission and not a decision of the Government thereon. Therefore, to claim that 1.4.86 would have been beneficial in any case is merely a hypothesis. The date of effect as 1.1.86 was agreed to by the Govt. for an overall benefit of the employees. Provisions of the said explanatory note will be invoked only in case where a particular decision of the Govt. <sup>results in</sup> ~~is of the~~ adverse effect. Therefore, as the date 1.4.86 was not a part of the decision of the Government, notification of date of effect as 1.1.86 on the basis of the decision of the Govt. cannot be a case of adverse affect. In view of these facts, no reliefs as claimed by the applicant are admissible.


4. In his rejoinder the applicant has stated that the contention of the respondents that the provisions of the said explanatory note will be invoked only in case where a particular decision of the Government is of the adverse effect is absolutely incorrect. The said explanatory memorandum is very clear which refers to the decisions of the Govt. to give retrospective effect to the CCS (RP) Rules, 1986 w.e.f. 1.1.86 and undertakes that this decision will not adversely affect any employee to whom these Rules apply. The respondents cannot put the applicant to a disadvantage with the implementation of these rules with retrospective effect while giving benefits to other employees.

5. I have gone through the pleadings as well as the arguments by the learned counsel for the Applicant and the Respondents. The basis for the relief asked for by the applicant is the Government of India decision to give effect to the recommendations of the IVth Pay Commission w.e.f. 1.1.1986. Had the Government accepted the recommendation of the Pay Commission revising the scale of pay w.e.f. 1.4.86 <sup>had</sup> the applicant would have <sup>no</sup> grievance but if recommendations are given effect to on 1.1.86, the applicant loses Rs. 100/- per month which is against the declared decision of the Government of India that while applying the date 1.1.1986 it will not affect any person adversely. There is merit in the arguments of the learned counsel for the respondents that the intention of the Government of India was to benefit a large number of Government Employees by giving effect to the revised pay scales from 1.1.86. It was not necessary for the

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Government to accept the date 1.4.86 as recommended by the IVth Pay Commission. It could have been 1.1.86 or 1.4.86 or even any other later date. When the Government categorically stated that no one would be affected adversely, by giving effect to the revised pay scales from 1.1.86, all it means is that nobody will get a lower salary on 1.1.86 <sup>than</sup> what he was drawing on that date under the pre-revised scale. In case the recommendation of the Pay Commission was to give effect to its recommendation w.e.f. 1.1.86 there would have been no case at all for the applicant. Hypothetically, there could be some other persons who would have been more benefited, had the recommendations been given effect to from a later date say 1.5.86. But so long as every one gets a higher salary on 1.1.86 <sup>than</sup> what he was getting earlier on that date, there cannot be any adverse effect by applying the decision of the Government. It is true that the applicant would have received greater benefit out of the recommendations of the IVth Pay Commission, had the Government of India accepted its recommendations to make these effective from 1.4.86 but the Government have modified the recommendations in many cases and the effective date 1.1.86 was decided to allow the benefit of a higher salary to a large section of employees, the case of the applicant that he has suffered a loss cannot be sustained as even he benefited by the revised pay scales effective 1.1.86. It is just a chance that he could not benefit more by Government not adopting the date 1.4.86.

6. In the circumstances, the application is rejected. There will be no orders as to costs.

  
( B.C. MATHUR )  
VICE CHAIRMAN