

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No. 1926 of 1988

13th day of December, 1993

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

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

1. Ram Naresh Pandey,
S/o Shri Vindhya Chal Pandey.
2. Shri S.L. Sehgal, PGT
S/o Shri Kishana Lal Sehgal
3. Shri S.R. Garg, PGT
S/o Shri Harish Chandra
4. Shri N.S. Sharma, TGT
S/o Shri J.P. Sharma
5. Shri G.D. Sharma, TGT
S/o Shri B.L. Sharma
6. Shri R.D. Tyagi, TGT
S/o Shri B.R. Tyagi
7. Shri A.K. Sharma, TGT
S/o Shri Narain Dass
8. R.L. Arora, TGT
S/o Shri Chander Bhan
9. M.C. Sharma, TGT
S/o Shri D.D. Sharma
10. J.C. Sharma, TGT
S/o Shri B. Singh
11. S.C. Sharma, TGT
S/o N.R. Sharma
12. H.D. Joshi, TGT
S/o Shri K.P. Joshi
13. P.P. Gupta, TGT
S/o Shri D.D. Gupta
14. Narendra Kumar, TGT
S/o Shri S.K. Sharma
15. R.N. Sood, TGT
S/o Shri B.R. Sood

Applicants

All the above applicants working in
Government Co-Education Senior Secondary School,
Viswasnagar, Delhi-32.

By Advocate: Shri Lokesh Kumar

Contd.....2/-

VERSUS

1. Union of India, through
Secretary,
Ministry of H.R.D., Deptt. of Education,
Shastri Bhavan, New Delhi
2. The Chief Secretary,
Delhi Administration,
5, Alipur Road, Delhi.
3. The Director of Education,
Delhi Administration,
Old Secretariat, Delhi.
4. The Pay & Accounts Officer No.8
(Education)
Delhi Administration,
AGCR Building,
New Delhi. Respondents

By Advocate: None present

O R D E R

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

The applicants at the time of filing of this O.A. No.1926/88 were working as Post Graduate Teachers/ Trained Graduate Teachers under the Directorate of Education, Delhi Administration, Delhi and were posted at Government Co-Education Senior Secondary School, Viswasnagar, Delhi. Their pay-scales had been revised in pursuance of the recommendations of the 4th Pay Commission vide notification No. F-15W-IC/86 dated 12.9.86 and 22.9.86. Later on the scales were further revised vide O.M. No. F-5-180/86-UTI dated 12.8.87. This memorandum sanctioned the introduction of the revised pay-scales w.e.f. 1.1.86. Accordingly the pay-scales of the applicants were refixed a second time and they were fixed at Rs.2480/2420 as on 1.1.1986 (for the different applicants).

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2. On 7th October 1986 an O.M. was issued sanctioning the grant of ad hoc bonus to the Central Government employees for the year 1985-86 and an ad hoc bonus equal to 23 days emoluments was granted. The relevant portion of this Memo reads as under:-

3. The ad hoc bonus for the accounting year 1985-86 as mentioned above will be computed on the basis of the actual emoluments upto and including Rs.2500.00 per month as on 31.3.86. The maximum amount will, however, be restricted to the amount admissible to those drawing emoluments of Rs.1600/- p.m. For the employees drawing monthly emoluments of more than Rs.1600/- but not exceeding Rs.2500/- p.m. the ad hoc bonus will be calculated as if the emoluments were Rs.1600/- p.m.

4(ii) The quantum of ad hoc bonus admissible under these orders will be worked out on the basis of emoluments as admissible on 31.3.86. The terms of emoluments occurring in these orders will be and include basic pay, personal pay/spel. pay, deputation (duty) allowance, dearness and additional DA but will not include interim relief and other allowance such as HRA, CCA, special compensatory (remote locality) allowance, Bad Climate Allowance and Children Edn. Allowance etc.

3. Since the applicants were drawing less than 2500 as total emoluments as on 31.3.86, they were considered entitled for ad hoc bonus and were as such paid Rs.1187/- as ad hoc bonus for the year 1985-86. Similar payment of ad hoc bonus had taken place in case of most of the applicants relating to the accounting year 1986-87.

4. While the matter stood thus the issue regarding payment of teaching allowance to the applicants which item was also sanctioned in the O.M. dated 12.8.87 conveying the sanction of revised pay-scales in improving ^{emcnl-} over the Fourth Pay Commission equivalent pay-scales,

got resolved. Accordingly the applicants were paid teaching allowance at the rate of Rs.100/- per month w.e.f. 1.1.86. This amount was arranged sometime during the period 1987-88. Even at this stage the respondents were not clear as to whether teaching allowance would be taken into account for computing the eligibility for pension purposes. Finally a clarification was issued on 3.11.87 to the effect that for the purpose of grant of ad hoc bonus, teaching allowance which is more or less in the nature of special pay, will have to be taken into account for the purpose of grant of bonus. As a result of this clarification further instructions were issued in May 1988 followed by letter dated 23.8.88 by which payment made towards ad hoc bonus for 1985-86 and 1986-87 was to be reviewed and wherever the teachers had crossed the entitled ceiling limit of Rs.2500/- after taking into account the teaching allowance, ad hoc bonus paid was to be recovered. This O.A. has been filed against this order dated 23.8.88 with the prayer that the same may be quashed.

5. On 11.10.88 when the matter came up for admission recovery of the said amounts as per instructions contained in letter dated 23.8.88 was stayed and the stay continues to be in operation.

6. The only ground on which the impugned order has been assailed is that teaching allowance cannot be a kind of special pay. This allowance does not have all the characteristics of special pay since

on special pay, Dearness Allowance is granted whereas against teaching allowance no DA is allowed. Also, special pay is granted for specific addition to the work or responsibility and no such mention had been made at the time of granting teaching allowance. At the time of arguments, the learned counsel for the applicants laid much emphasis on the reply filed by the respondents to the effect that special pay includes non-practising allowance as granted to Doctors in lieu of private practice and the payment of teaching allowance to teachers is on the analogy of the payment of non-practising allowance to the Doctors and therefore it is more or less a kind of special pay. The counsel argued that if teaching allowance is to be put on the same pedestal as NPA then it should count for every purpose, since NPA is treated as pay for all service matters, like computing DA, entitlement of TA/DA and other allowances as well as for calculation of retirement benefits.

7. Having heard the learned counsels for the ~~applicants~~ parties and after going through the averments of the counter affidavit, we note the teaching allowance has been granted along with the revised pay-scales as per O.M. dated 12.8.87, the date of effect being given retrospectively, i.e. from 1.1.86. Accordingly the pay-scales of the applicants were fixed in the revised pay-scales and were granted teaching allowance from this date, though such a fixation took place at a much later date. The only argument of the applicants namely, teaching allowance should be treated as special

pay, is not the subject matter of this O.A. Even if teaching allowance is not construed as Special Pay, how this would result in this allowance being exempted for bonus purposes has not been explained. Under the term 'emoluments' for the purpose of bonus, which are the elements that would be taken into account and which would not be taken into account, is a matter for decision by the Government. Neither of the parties has advanced any particular reasoning behind the inclusion or otherwise of various elements which go to make the 'emoluments'. We are also not in a position to state that inclusion of teaching allowance for the purpose of computing bonus eligibility is discriminatory or illegal, based on the material placed before us.

The stay granted on 11-10-88 is vacated

8. Accordingly, this O.A. is dismissed. No costs.

P.T. Thiruvengadam

(P.T. Thiruvengadam)
Member (A)

J.P. Sharma

(J.P. Sharma)
Member (J)