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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 417/88
O.A. NO. 1683/92

DECIDED ON : 22.09.1993

BRAHAM SINGH .

...

PETITIONER

VS.

UNION OF INDIA THROUGH SECRETARY ...
MINISTRY OF HOME AFFAIRS & ORS.

RESPONDENTS

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri A. S. Grewal, Counsel for Petitioner

Shri Jagdish Vats, Counsel for Respondents

O R D E R (ORAL)
(BY HON'BLE MR. JUSTICE V. S. MALIMATH)

The petitioner, Shri Brahm Singh, was appointed as a Constable in the Delhi Police on 28.7.1968. In connection with certain disciplinary proceedings against him, he was kept under suspension in 1979 and a departmental inquiry was held. That resulted in imposition of a penalty of forfeiture of five years' approved service of the petitioner. The petitioner was in the pre-revised grade-A pay scale of Rs.210-270. On completion of 15 years of service he was eligible for grade-B pay scale of Rs.225-308. He became eligible for that grade on 28.7.1983. In view of the disciplinary proceedings and the penalty imposed, the petitioner was not found fit for grant of grade-B on completion of 15 years of service. The petitioner challenged the order imposing penalty on him in a suit which came to be transferred to the Tribunal. That case was allowed by the Tribunal on 4.3.1987, as admitted by the respondents

in their reply, and the order imposing penalty as also the order of suspension were quashed. The respondents have stated in their reply that consequential monetary benefits flowing from the quashing of the order of suspension and the order of imposition of penalty were duly given to the petitioner. The petitioner has approached this Tribunal with this application praying for a direction to the respondents to accord him the higher scale of pay of Rs.225-308 w.e.f. 28.7.1983, the date on which he completed 15 years of service until the revision of pay scales was brought about w.e.f. 1.1.1986 on the basis of the recommendations of the 4th Pay Commission. His further prayer is for according of the scale of pay of Rs.950-1400 w.e.f. 1.1.1986 in place of the scale of Rs.825-1200 accorded to him w.e.f. 1.1.1986.

2. The petitioner has asserted that he was not given the benefit of grade-B scale of Rs.225-308 w.e.f. 28.7.1983 to which he became entitled to on completion of 15 years of service on that date on the ground that the petitioner did not have a satisfactory record of service, he having been kept under suspension and later on the penalty of forfeiture of five years' approved service being imposed on him. As those orders of suspension and imposition of penalty have since been quashed by the Tribunal on 4.3.1987, it was urged that the petitioner is entitled to be granted the higher scale of pay of Rs.225-308 w.e.f. 28.7.1983. The reply filed by the respondents does not indicate that the petitioner's case

was considered for the grant of the higher scale of pay to which he became entitled to on 28.7.1983. It is no doubt true that the higher scale can be granted on completion of 15 years of service subject to the person concerned having a satisfactory record of service. Earlier, it was felt that his record of service was not satisfactory because of the disciplinary proceedings which resulted in imposition of the penalty. No other factor was taken into consideration to deny him the benefit of the higher scale. The order of suspension and the order of penalty having since been quashed by the Tribunal, the respondents were required to re-examine the case of the petitioner for grant of grade-B. That has not been done. We do not consider it necessary having regard to the facts of this case to direct the respondents to consider the case of the petitioner for the reason there is no other factor other than the disciplinary proceedings and the penalty imposed which was taken into consideration for denying the benefit of higher grade. Hence, we consider it just and proper to direct the respondents to accord to the petitioner the benefit of grade-B scale of pay of Rs.225-308 w.e.f. 28.7.1983 till 1.1.1986 when the revised scales of pay came into force.

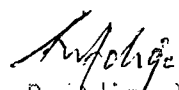
3. As regards the claim of the petitioner for the benefit of the higher scale from 1.1.1986 of Rs.950-1400, the case pleaded by the petitioner is that there is no justification for granting higher scale of Rs.950-1400 to his junior Shri Satbir Singh and placing the petitioner

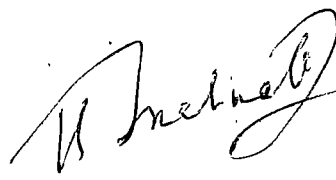
in the lower scale of Rs.825-1200. It is urged that this is discriminatory in character. In the reply filed by the respondents, it is stated that on the recommendations of the 4th Pay Commission two scales have been prescribed for the Police Constables; lower scale of Rs.825-1200 for non-matriculate and that of Rs.950-1400 for matriculates. The petitioner admittedly is not a matriculate and, therefore, entitled only to the scale of Rs.825-1200. Satbir Singh, his junior, being a matriculate was entitled to the higher scale of Rs.950-1400. It is not possible to accede to the contention that granting of the higher scale of pay to those performing the same duties like the petitioner and other Police Constables on the ground of possessing higher qualifications is discriminatory and violative of Article 14 of the Constitution. It is enough to say that it is well settled law that on the basis of higher qualification it is permissible to accord a higher scale of pay. Having regard to the nature of the duties to be performed as a Police Constable, we are inclined to take the view that a person who possesses higher qualification of matriculation would be able to discharge his function in a much more satisfactory manner than a non-matriculate. That being the position, the according of higher pay scale to matriculates in preference to non-matriculates cannot be regarded as arbitrary or violative of Article 14.

4. It was next urged by the learned counsel for the petitioner that he having become entitled to grade-B

w.e.f. 28.7.1983, the petitioner automatically became entitled to the higher scale of pay of Rs.950-1400. Firstly, it is necessary to point out no such case has been specifically pleaded. The petitioner has not placed any material to show that those who were in the higher scale of Rs.225-308 before 1.1.1986 were required to be given a higher scale of Rs.950-1400 w.e.f. 1.1.1986. The respondents have pleaded that w.e.f. 1.1.1986 matriculates are entitled to the scale of Rs.950-1400 and non-matriculates to the scale of Rs.825-1200. By rendering 15 years of service the petitioner who is a non-matriculate does not convert himself into a matriculate to become qualified for the higher scale of pay of Rs.950-1400. It is, therefore, not possible to accede to the contention of the petitioner that he should have been given the scale of Rs.950-1400 w.e.f. 1.1.1986.

5. For the reasons stated above, this application is partly allowed. The respondents are directed to give to the petitioner the higher scale of grade-B of Rs.225-308 w.e.f. 28.7.2983 to 1.1.1986. Difference in emoluments flowing from the according of higher scale of pay shall be accorded to him. If this entitles the petitioner to the fixation of his pay at a higher level in the revised scale of Rs.825-1200 w.e.f. 1.1.1986 the benefit of that also shall be accorded to him along with the arrears. These directions shall be carried out within a period of four months from the date of receipt of a copy of this judgment. No costs.


(S. R. Adige)
Member (A)


(V. S. Malimath)
Chairman