

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. No.1146/88

Date of decision :4.01.1993

All India Association of  
Accounts & Audit Officers through  
its Secy General Shri S.K. Mathur ... Petitioner

Versus

Union of India & Ors through  
Secretary to the Govt  
Ministry of Finance ... Respondents

CORAM :-

Hon'ble Mr I.K. Rasgotra, Member (A)

For the Petitioner : Shri E.X. Joseph, Counsel  
For the Respondent : None

JUDGEMENT (Oral)

Shri N.K. Srivastava, Audit Officer (Commercial)  
and All India Association of Accounts & Audit Officers  
Shri M.K.Mathur jointly  
through Secretary General have filed this application  
praying for the following reliefs :-

1) The order of the respondents dated 3rd May, 1988. passed to the following effect be quashed and set-aside;

"I am directed to refer to the Central Administrative Tribunal, Principal Bench, New Delhi's decision dated 10.12.87 in O.A. No.913, 914, & 915 & 916 and convey that the matter has been re-examined by taking into account all the points raised by the All India Association of Accounts and Audit Officers of the Indian Audit and Accounts Department in their representation referred to in the decision of the Tribunal on reconsideration also, the Government finds no justification to modify the stand taken by them earlier."

2) They have further prayed that the discontinuance of payment of adhoc special allowance to Audit Officers Rs.100/- per month be declared as violative

of Article 14 of the Constitution of India and that a mandamus be issued to respondents to continue to pay ad hoc special allowance of Rs.100/- per month which was granted to Audit Officers w.e.f. 18th September, 1985 and that the ad hoc special allowance be deemed as special pay and be consequently taken into consideration for fixation of pay in the revised scale w.e.f. 1.1.1986.

It is further prayed that ad hoc special allowance already paid from 1.1.1986 to 30.9.1986 be not recovered from the petitioners.

2. The case of the petitioners is that cadre of the Audit and Accounts department was restructured w.e.f. 1.3.1984 and the auditors/Section Officers (Group 'C') were given higher scale of pay while Accounts staff were placed at a lower level. However, no orders were issued under the restructuring scheme for the Audit Officers. They were later granted ad hoc special allowance of Rs.100/- per month by Order No.2805-G.E-II/191-83 dated 18.9.1985. The ad hoc special allowance so granted to the petitioners was reviewed by the Fourth Central Pay Commission and as a consequence thereof the Commission recommended discontinuance of the said allowance. Paragraph 10.520 which deals with the said allowance is extracted below :-

"The existing pay scales of posts in IAAD, both in the audit and accounts wings conform to the pay scales discussed in chapter 8. The scales of

2

recommended there will apply to these posts except in the case of senior accountant (Rs.425-700) on the accounts side, which may be given the scale of Rs.1400-2600. Audit Officers have been allowed a special ad hoc allowance of Rs.100/- per month by government in September, 1985 pending our report. We do not find adequate justification for continuance of this allowance with the revised scales of pay recommended by us."

"The existing pay scales of post in IAAD both in the Audit and Accounts Wings conform to the pay scales discussed in Chapter-8. The scales of pay recommended there will apply to these posts except in the case of Senior Accountant (Rs.425-700) on the accounts' side, which may be given the scale of pay of Rs.1400-2600. Audit officers have been allowed special adhoc allowance of Rs.100/- per month by government in September, 1985 pending our report. We do not find adequate justification for continuance of this allowance with the revised scale of pay recommended by us."

Accordingly the said ad hoc special allowance was discontinued by the Respondents w.e.f. 1.1.1986 the date from the recommendations of the Fourth Central Pay Commission were implemented. Since the recommendations of the Pay Commission were implemented retrospectively w.e.f. 1.1.1986, the petitioners continued to draw the allowance upto September, 1986. In the face of the specific recommendation made in this regard by an expert body like the Fourth Central Pay Commission, it is not for us to go into the matter again. It is well settled that the matter of allocation of pay scales etc falls within the domain of executive and where the pay scales and allowances etc have been introduced in pursuance of the recommendations of an expert body like the Fourth Central Pay Commission, interference by the Courts is not warranted. The law in such matters has been declared by the Hon'ble Supreme Court in

J.T. 1990(4)SC.58 between K. Vasudaven Nair v/s Union of India & Another and A.I.R. 1989 SC.19(1989(1) SCC-121) between State of Uttar Pradesh Vs J.P. Chaurasia.

3. The respondents too in their counter have stressed the fact that matter having been considered by the Fourth Central Pay Commission, and a specific recommendation having been made there is nothing further which can be done.

Learned Counsel for the petitioners however, referred us to the Ministry of Finance, Department of Expenditure O.M. No.F-6(82)-IC-91 dated 2.9.1992 wherein sanction of the Government has been conveyed to the creation of the promotional grade of Rs.2200-4000 for the Audit and Accounts Officers of the Organised Accounts Cadres. The Learned counsel submitted that this order has been issued against the backdrop of the restructuring scheme of the Audit and Accounts Department. In this background, Learned counsel submitted that it will perhaps be appropriate to issue direction to the respondents to not to effect any recovery of ad hoc special allowance already paid to the Audit Officers from 1.1.1986 to 30.9.1986 even though the Fourth Central Pay Commission recommended its discontinuance from 1.1.1986.

4. We have considered the submissions of the Learned Counsel for the petitioners, perused the record and gone through the counter-affidavit carefully. We are of the opinion that no case has been made out for judicial interference to perpetuate the ad hoc special allowance granted to the petitioners where its

2

discontinuance has been recommended by an expert body viz the Fourth Central Pay Commission specifically. Nor has any material been placed on record to establish infraction of Article 14 of the Constitution. We are satisfied that the respondents have given fair and just treatment to the petitioners by providing them promotional grade of Rs.2200-4000. In the circumstances, I am not inclined to grant reliefs, as prayed for, by the petitioners. The application is accordingly fails and is dismissed. No costs.

This, however, will not preclude the respondents to consider sympathetically waiving of recovery of ad hoc special allowance paid during the period from 1.1.1986 to 30.9.1986, if the petitioners individually represent to that effect in the peculiar circumstances of the case and if the hardship caused to the petitioners so warrants.

  
(I.K. RASGOTRA)  
MEMBER (A)

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