

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 4 of 1986  
~~XXXXXX~~

DATE OF DECISION \_\_\_\_\_

Shri B.C. Baurai Petitioner

In person Advocate for the Petitioner(s)

Versus

Union of India & Another Respondent

Shri K.C. Mittal Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. S.P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H.P. BAGCHI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*

JUDGEMENT

The applicant has come up under Section 19 of the Administrative Tribunal Act seeking relief in the form of payment of Special Pay of Rs.35/- per month from 1st May 1984 till date for working as Selection Grade Auditor and handling complex

and more important nature of work allotted to such Auditors with Special Pay in the Defence Accounts Department.

2. We have heard the arguments advanced by the petitioner and the learned counsel for the respondents. It is admitted that the applicant while working as Selection Grade Auditor has been assigned work of more important and complex nature right from 1st May 1984. It is also admitted that in accordance with the scheme of grant of such Special Pay the selection of Auditors used to be made on seniority-cum-fitness basis which was later relaxed vide the notification of 22nd July 1983 which is annexure RA-IV to the rejoinder. By this relaxation the necessity of having the Departmental Promotion Committee for promotion of such Auditors was done away with. It is also admitted that about 27 officials junior to him (petitioner) have been getting the Special Pay. The argument of the learned counsel of the respondent <sup>is</sup> that the number of Auditors to be given Special Pay is restricted to 10% to the posts of UDC and accordingly the applicant could not be accommodated within the percentage. It was further argued by him that for grant of Special Pay, suitability had to be judged <sup>is that</sup> and a disciplinary action was pending against the applicant since 1983 which resulted in award of Censure on 28.6.1984.

3. We have gone through the papers and found that the Censure was given on the count that the applicant had been recording in the work book adventitious remarks like "worried for personal livelihood" and <sup>is for</sup> delaying the preparation of Punching Medium and also delay in issuing objection statement while employed <sup>in</sup> the Imprest Section. We feel that the punishment of

Censure was not so grave so as to deprive the petitioner of the Special Pay to which he was entitled by way of discharging important and complicated nature of work assigned to him as an Auditor. It also transpired that the remarks that he had been recording originated from the mental worry he had been undergoing for non-payment of salary during the month of March 1983. Be that as it may, the fact remains that in spite of the alleged draw-backs in his performance the applicant was retained as Selection Grade Auditor and was continued to be assigned with more important and complicated work since 1979. Since the Special Pay is to be awarded for discharging onerous and complicated work the applicant could not be deprived of the Special Pay so long as he was retained at such a post discharging such complicated and onerous duties. If the respondents found him to be unsuitable they could have easily transferred him from such a post.

4. In the result we find considerable merit in the application and allow the same. The applicant should be given the Special Pay from 1st May 1984 so long as his juniors on the basis of All India Roster as admitted by the respondents <sup>were</sup> ~~are~~ getting the Special Pay and so long as he continues to discharge more important and complicated work. It will however be open to the Department to shift him to some other assignment where such important and complicated work has not to be handled and in that case he will not be entitled to the Special Pay. There will be no order as to costs.

  
(H.P. BAGCHI)

10.4.86

  
(S.P. MUKERJI)