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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CCP 19/86 & CCP 33/87 in
O.A. No. 10/ 1986.

~~To Axx No:~~

DATE OF DECISION 8th May, 1987.

Shri P. S. Sawhney

Petitioner

In person

Advocate for the Petitioner(s)

Versus

Union Territory Admn.,

Respondent

Chandigarh

Shri R.K. Aggarwal,

Advocate for the Respondent(s)


Director Tech. Education, U.T.
Chandigarh.

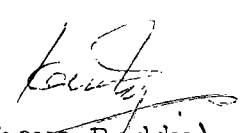
CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member (A).

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*
4. Whether to be circulated to other Benches? *No*


(Kaushal Kumar)
Member
8.5.1987.


(K. Madhava Reddy)
Chairman
8.5.87.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

CCP 19/86 & CCP 33/87 in OA 10/86

Dated: 8.5.1987

Shri P.S.Sawhney

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Petitioner

Vs.

Union of Territory Admn.
Chandigarh

Respondents

CORAM :

Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the Petitioner

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Petitioner in person.

For the Respondents

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Shri R.K. Aggarwal, Director
Tech. Education, U.T.
Chandigarh.

(Judgement of the Bench delivered by Hon'ble
Shri Kaushal Kumar, Member)

JUDGEMENT

This is a Contempt Petition(No.CCP 19/1986)
filed for non-compliance of the order passed by this
Tribunal on 22.7.1986 in OA No.10/86. The petitioner
has stated that the order of this Tribunal dated 22.7.1986
has been implemented only partly and arrears of pay and
allowances, transfer T.A. and joining time pay have not
been fully paid to him. Notice of this petition was
given to the respondents.

2. We have heard at length the petitioner and the
respondents and find that the direction given in our
judgement order dated 22.7.1986 have been duly complied
with. The operative part of the order as in para 7
thereof runs as follows:-

"7. In view of the above, the petition
is allowed with the direction that the
petitioner's pay should be fixed at
Rs.1100 in the scale Rs.750-50-1300 along-
with the Special Pay attached to the post,
with effect from the date of his joining
the post of Head of Department (Civil
Engineering), Central Polytechnic, Chandigarh.



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The subsequent increments will be paid to him from the dates they fell due. The petitioner will also be entitled to arrears of pay and allowances in the light of the said fixation. It is further directed that the petitioner should be paid joining time pay and Travelling Allowance from the station of his last posting under the Maharashtra State Government i.e., Nanded to Chandigarh as admissible under the rules. This order will be implemented within two months from the date of its receipt by the Chandigarh Administration. In the circumstances of the case, there shall be no order as to costs."

The petitioner joined as Head of Department (Civil Engineering), Central Polytechnic, Chandigarh on 30.11.1977 and his pay in the scale of Rs.750-50-1300 was fixed at Rs.1100/- plus a special pay of Rs.100/-. It has been brought to our notice that the scale of Rs.750-1300 was subsequently revised to Rs.1400-50-1700/75-2000/100-2100 with effect from 1.1.1978. The point at issue is as to at what stage the pay of the petitioner should have been fixed in the revised scale from 1.1.1978. The respondents have filed a copy of the letter No.9/53/79-IFR dated 29th February, 1980 from the Government of Punjab, Department of Finance (Finance Regulations), Chandigarh, on the subject of "Punjab Civil Services (Revised Scales of Pay) Rules, 1979-Clarification regarding the manner in which the D.P., D.A., IR/AR and A.D.A. admissible on special pay is to be regulated". The orders contained in the said letter were adopted by the Chandigarh Administration for fixation of pay of their employees. The case of the petitioner is covered by para 1(iii) of the letter which reads as under:-

" Cases in which Special Pay was admissible in the existing scale and has also been sanctioned in the revised scale as a separate component."



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The revised pay fixation is to be regulated in accordance with para 2(iii) of the said letter which reads as follows:

" In respect of the cases falling in category (iii), the pay in the revised scale be determined with reference to the basic pay plus the element on account of D.P., D.A., I.R./A.R., and A.D.A admissible on 1st January, 1978, on existing pay plus special pay. The employees be allowed special pay in addition to the pay as fixed in the revised scales of pay under the rules".

From the above, it is quite clear that the element of D.P., D.A., I.R./A.R. and A.D.A. is to be reckoned on the existing pay plus special pay which in the case of the petitioner on January 1, 1978 was Rs.1200/-. On this amount of Rs.1200/-. the element of D.A. was Rs.100, the A.R. was Rs.60, and A.D.A. was Rs.198 + Rs.120, aggregating to Rs. 478/-. Total emoluments on the basic pay of Rs.1100/- in terms of para 2(iii) above as embodied in the 'Fitment Table' attached with the letter in question work out to Rs. 1578/-. The revised pay fixation on the total emoluments of Rs.1578/- in column No.6 of the 'Fitment Table' is shown as Rs.1640/- in column No.7 thereof. The position has been further clarified in para 3 of the letter that " no benefit in the form of enhanced emoluments will be admissible to the employees with reference to special pay sanctioned/enhanced with effect from 1st January, 1978 for determining pay in the revised scale with effect from 1st January, 1978." As such the pay of the petitioner from 1.1.1978 should have been fixed at Rs.1640/- plus a special pay of Rs.100/- and he should have been allowed subsequent increments also.

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from the dates on which the same fell due viz., from 1.11.1978, 1.11.1979, 1.11.1980, 1.11.1981 and 1.11.1982. The respondents have stated that the petitioner was allowed increments raising his pay to Rs.1700 from 1.11.1978, Rs.1775 as from 1.11.1979, Rs.1850 as from 1.11.1980, Rs.1925 as from 1.11.1981 and Rs.2000 as from 1.11.1982. The petitioner was also paid Special Pay of Rs.100/- per month in addition to this basic pay as indicated above. He was allowed to cross the E.B. at the stage of Rs.1700/-. The contention of the petitioner is that after computing the element of D.P., D.A., I.R./A.R. and A.D.A on pay and the special pay, the special pay again should have been added with such amount. According to him the revised emoluments in column 6 of the 'Fitment Table' should have been taken at Rs.1678 instead of Rs.1578 for fixing his revised pay. We are unable to uphold the contention of the petitioner. The orders in para 2(iii) referred to above are quite clear and they do not lend themselves to any doubt as regards the interpretation that whereas the allowances as mentioned therein are to be computed on the element of the basic pay plus special pay, the special pay is to be allowed only after revised fixation has been done.

3. It is conceded by the petitioner that arrears of pay and allowances on the basis of the above fixation have already been disbursed to him. A copy of letter No.16/CPC/571 dated 6.3.87 from the Principal, Central Polytechnic, Chandigarh to the Director, Technical Education, Union Territory, Chandigarh has also been filed, which reads as follows:-

" In implementing of Para No.7 of C.A.T. decision dated 22.7.86, the payment of Shri Sawhney, has

[Signature]

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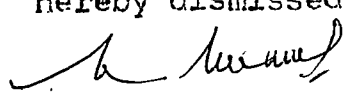
been made as under:-

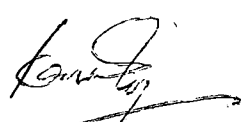
- (i) Salary of one day i.e. for 29.11.77.
- (ii) Transfer T.A. Bill.
- (iii) Arrears of pay for the period 30.11.77 to 28.2.1977 after fixation of pay as Rs.1100/- + Rs.100 SP on 30.11.1977.

It is added that as per decision of the Chandigarh Administration, the arrears of pay have been calculated on the basis of withholding of his E.B. at second stage at Rs.2000/- with effect from 1.11.1983 in the scale of Rs.1400-2100."

4. The petitioner has further contended that he has not been allowed to cross the second Efficiency Bar at the stage of Rs.2000/- in the revised scale. We are afraid that this relief was neither claimed in the original Application No.OA 10/86 filed by the petitioner nor can it form the subject matter of the Contempt Petition. We hold that our order dated 22.7.1986 has been duly complied with and accordingly dismiss the Contempt Petition No.19/ 86.

5. As regards the second Contempt Petition No. 33/87 with reference to the judgement pronounced in OA 10/86, the same is not maintainable since the violation and breaches referred to in para 6 do not at all relate to order dated 22.7.1986 passed in the Original Application. If the petitioner has got any grievance, he can file a separate application under Section 19 of the Act. As such CCP 33/1987 is also hereby dismissed.


(KAUSHAL KUMAR)
MEMBER
8.5.87


(K. MADHAVA REDDY)
CHAIRMAN
8.5.87