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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Dated Friday the twentieth day of January, one thousand nine hundred eighty nine

PRESENT

Hon'ble Shri S.P. Mukerji - Vice Chairman

ORIGINAL APPLICATION No.1424/87

N.L. Sachdev .. Applicant

Versus

Union of India & Others .. Respondents

Counsel for the applicant .. Petitioner in person

Counsel for the respondents .. Shri N.S. Mehta

O R D E R

Hon'ble Shri S.P. Mukerji, Vice Chairman

The applicant who was working as an Artist in the Planning Commission, in this application dated 7.10.1987 has prayed that the impugned order dated 9th October, 1986 fixing his pay in the revised scale of pay with effect from 1.1.86 as Rs.2100 and Rs.2150/- as on 1.1.87 should be set aside and his pay should be fixed on Rs.2250 as on 1.1.86 and 2300 on 1.4.86 with subsequent increments falling due on 1st April every year. He has also prayed that his pay as on 1.1.73 should also be revised. The brief facts of the case are that the applicant has been working as an Artist in the pre-revised scale of Rs.425-700 since 1.4.66 with 16 annual stages. He reached the maximum of the scale on Rs.700 with effect from 1.4.84 and ^{was} stagnating at that level. On 1.4.86 before the

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decision on the Fourth Pay Commission's Report was available, on the ground that he had been stagnating at the maximum of the scale for two years he was given an adhoc increment of Rs. 20 and his pay was fixed on Rs. 720/- as on 1.4.86. The pay scale of the post of Artist on the recommendations of the Fourth Pay Commission was revised to Rs. 1400-2300 with 20 annual stages. He opted for the revised pay scale and in accordance with the relevant provisions of the Central Civil Services (Revised Pay) Rules, 1986, corresponding to his total emoluments before revision being Rs. 2033.50 his pay was fixed at Rs. 2050/- as on 1.1.86 and since he had been stagnating at the maximum of the old pay scale for more than one year as on 1.1.86 he was given one more increment in the revised scale under the third proviso in Rule 8 and his pay was fixed at Rs. 2100/- The main contention of the applicant is that in accordance with Note 3 below Rule 7 he should be given three increments as on 1.1.86 and next increments as on 1.4.86 because in the old scale he was entitled to increment on the 1st of April every year.

2. I have heard the arguments of the applicant and of Shri N.S. Mehta, learned counsel for the respondents. Note 3 below Rule 7(1) of the CCS(Revised Pay) Rules, 1986 reads as follows:

"Note 3:- Where in the fixation of pay under sub-rule(1) the pay of Government servant drawing pay at more than five consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first five consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner, namely:-

- (a) for Government servants drawing pay from the 6th up to the 10th stage in the existing scale - By one increment;
- (b) for Government servants drawing pay from the 11th up to the 15th stage in the existing scale, if there is bunching beyond the 10th stage-By two increments;
- (c) for Government servants drawing pay from the 16th up to the 20th stage in the existing scale, if there is bunching " beyond the 15th stage-By three increments.

The applicant's contention is that under the old scale there were 16 stages ending on Rs.700/- but since in the revised pay scale of Rs. 1400-2300 there are 20 stages, every year's stagnation in the old scale after 700/- should be taken as one stage and since he had stagnated for one year at Rs.700 till 1.1.86 he can be deemed to have been drawing pay in the old scale at the 16th stage at Rs.700/-. He further argued that since there is no increment beyond 700/- there will be bunching at 16th, 17th etc., consecutively for five years or more beyond 15 stages and therefore in accordance with Category 'C' in Note 3 as quoted above he should be entitled to three increments. I am not convinced by this argument. The wording of Note 3 makes it clear that the stages should be the distinct ^{incremental} steps.

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in the old running pay scale and once the maximum is reached the question of any consecutive stage and bunching beyond the maximum of the pay scale do not arise. If the problem of bunching beyond the maximum of the pay scale had to be covered by Note 3 in Rule 7, there would have been no need to have 3rd and 4th provisos in Rule 8, which read as follows:

"Provided also that in the case of persons ⁶ who had been drawing maximum of the existing scale for more than a year as on the 1st day of January, 1986, next increment in the revised scale shall be allowed on the 1st day of January, 1986:

Provided also that in the case of Government servants who were in receipt of an ad hoc increment on their stagnating for more than two years at the maximum of the existing scale of pay as on the 1st day of January, 1986, one more increment in the revised scale shall be allowed to them on the 1st day of January, 1986, in addition to the increment already allowed under the preceding proviso." (emphasis added).

3. The other contention of the applicant that his next increment should accrue on 1.4.86 and not on 1.1.87 cannot also be accepted. In accordance with Rule 8 "the next increment of a Government servant whose pay has been fixed in the revised scale in accordance with the sub-rule 1 of Rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale". This provision is qualified by the first proviso to the effect that when ⁶ the pay of a Government servant is stepped up in terms of Note 3 to sub-rule 1 of Rule 7 the next increment shall be granted on the completion of qualifying service of twelve months from the date of the stepping

up of the pay in the revised scale. Since in the instant case there has not been any stepping up under Note 3 to Rule 7(1) the question of giving any increment before 1.1.87 does not arise. The applicant's pay as on 1.1.86 was fixed under the 3rd proviso as quoted earlier by virtue of which he got one additional increment as on 1.1.86 itself because of his stagnation in the old scale. Having received the benefit of additional increment as on 1.1.86 he cannot claim another increment on 1.4.86.

4. However, the learned counsel for the respondents admitted that the applicant was given an increment on 1.4.86 because of his stagnation at the maximum of the old pay scale and his pay was revised to Rs.720/- as on 1.4.86. The maximum benefit that can be given to him is to fix his pay in the revised scale of Rs. 1400-2300 as on 1.4.86 based on his basic old pay of Rs.720/-, in accordance with the Revised Pay Rules. He can be given the option either to retain the revised pay as on 1.1.86 with increment on 1.1.87 as already been fixed or to get his pay fixed in the revised pay scale from 1.4.86 on the basis of his basic pay of Rs.720/- with the next increment accruing on 1.4.87. In the latter case

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he will have to draw pay and allowances under the pre-revised system between 1.1.86 and 31.3.86.

5. We are not impressed by the legal and Constitutional points raised by the applicant that he has been discriminated against and that he is entitled to the benefit of Note 3 Under Rule 7 of the Revised Pay Rules. He has not been able to point out whether any other officer similarly circumstanced and situated has been treated more beneficially. The Revised Pay Rules were not inflicted upon him but he ^{himself} opted to get his pay fixed under the Revised Pay Rules. Once he ^{has} opted for the Revised Pay Rules the fixation of his pay will be in accordance with the different provisions of the Rules. Since he has not challenged the vires of any of the Rules and no error in the application of the Rules to his case has been evidenced, I see no reason to intervene in the matter.

6. In the circumstances I reject the application with the direction that the applicant will be given the option to get his pay fixed under the Revised Pay Rules as on 1.4.86 on the basis of his basic of Rs.720/- with increments accruing on the 1st of April ^{of} subsequent years and subject to the condition that he will be allowed emoluments under the pre-revised system between 1.1.86 and 31.3.86.

7. There will be no order as to costs.

S. P. Mukerji
(S.P. MUKERJI)
VICE CHAIRMAN

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