

CENTRAL ADMINISTRATIVE TRIBUNAL
(PRINCIPAL BENCH)
DELHI.

DA 1552/87

Shri R.Srinivasan & Ors Vs. Union of India.

5.1.88

Applicants through Shri K.A.Ramasubramaniam, counsel.
Respondents through Shri N.S.Mehta, Senior Standing
counsel.

(Judgment of the Bench delivered by Hon'ble Mr.Justice
K.Madhava Reddy, Chairman).

The applicants were promoted to the cadre of Section
Officers in the Central Secretariat from the Grades of
Assistants/Stenographers Gr.'C'. The pay of the Section
Officers up to the date of implementation of the Fourth
Pay Commission's recommendations was Rs.650-30-740-35-810-
EB-35-880-40-1000-EB-40-1,200. Note append ^{ed} to Rule 19 of
the CSS Rules, 1962 reads as under.

"NOTE :- An officer promoted to the Section Officers'
Grade shall be allowed a minimum initial pay of Rs.710 in
this scale"(emphasis added)

In accordance with the above note that an officer
promoted to Section Officer's Grade will get a minimum
initial pay of Rs.710 in the scale; in other words, on
promotion they were allowed two increments, thus taking
their minimum initial pay to Rs.710/- They pray for a
direction against the Union of India for refixing the pay
of the applicants in the revised scale of Section Officers
in accordance with the requirements contained in the Note
under Rule 19 of C.S.S. Rules, 1962. It is the contention
of the applicants that even after the implementation of
the Fourth Pay Commission's recommendations, while fixing
the initial pay of Section Officers in the scale of
Rs.2,000-3,500 they should be allowed these two increments
and their pay should be fixed at the minimum of Rs.2,120/-
This is neither recommended by the Fourth Pay Commission
nor allowed by the Government. There is no rule directing
the Government to allow two increments even in revised pay

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scale of Rs.2,000-3,500 now allowed to Section Officer in implementation of the Fourth Pay Commission's recommendations. In the absence of any such Rule the respondents cannot be directed to fix the initial pay at Rs.2,120. What is, however, contended is that when the Third Pay Commission's recommendations were implemented two such increments were granted and Section Officers were allowed a minimum of Rs.710/- and therefore the same principle should be applied while implementing the Fourth Pay Commission's recommendations also. Otherwise, according to them, it would be discriminatory violative of Articles 14 and 16 of the Constitution. We are unable to accept this contention. All Section Officers who are given the Revised Pay scale are treated equally in as much as all have been given the minimum initial pay of Rs.2,000/- which is much higher than the then pre-revised pay. The Note relied upon applies to only those Section Officers who are in the scale of Rs.650-1200, which is no longer in existence. The applicants cannot claim the application of that Note analogy to the revised pay scales. After the implementation of the Fourth Pay Commission none of the Section Officers have been given the two increments, hence no question of discrimination or violation of Article 14 or 16 arises. In the absence of any violation of any rule or Constitutional provision, the petitioners who have been admittedly given a much higher pay scale (Rs.2,00-3500) in the place of the earlier pay scale (Rs.650-1200), cannot claim for a Mandamus to compel the Government to fix their minimum initial pay at Rs.2,120/-.

(A)

It is stated that certain Section Officers were allowed these two increments while implementing the Fourth Pay Commission's recommendations. When it was realised that these increments were not admissible under the extant rules, the amount so paid was certainly recoverable. Any amount paid under a mistake can certainly be recovered from their future pay. On the basis of such erroneous payment, the Section Officers do not acquire any right either to retain that amount or claim two increments in the revised pay scale.

The petition is without any merit and accordingly dismissed.

kaushal kumar
(Kaushal Kumar)
Member

K. Madhava Reddy
(K. Madhava Reddy)
Chairman