

Central Administrative Tribunal  
Principal Bench, Delhi.

REGN. NO. OA 242 of 1987 .... Date of decision 12.1.88

Shri P. Ramachandran .... Applicant

Vs.

Union of India & Others .... Respondents

PRESENT

... Applicant in person.

Shri M.L. Verma and  
Mrs. Raj Kumari Chopra ... Advocates for the respondents.

CORAM

Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, against impugned orders No. 5/2/71-Estt.III/Pt.II/3436-53 dated 10.10.1986 by Superintending Engineer, Investigation Circle No. II, Central Water Commission, and No. A-51011(2) 86-Estt. IV dated 18/19.12.86 from the Section Officer, Central Water Commission, Sewa Bhawan, rejecting the claim of the applicant regarding fixation of salary.

2. The case of the applicant is that he was working as U.D.C. in the Central Water Commission in the scale of Rs. 330-560 with a special pay of Rs. 35/-. As a result of the recommendations of the 4th Pay Commission, the pay scale was revised to Rs. 1200-2040, but his pay which should have been refixed at Rs. 1640/- under Rule 7(1)(B) of the C.C.S. (R.P.) Rules, 1986, was actually fixed at Rs. 1530/- under Rule 7(1)(C) denying his legal claim. The applicant has stated that he was drawing a special pay of Rs. 35/- for doing complex nature of work in accordance with the Ministry of Finance O.M. No. F-7(52)-E.III/78 dated 5.5.1979 (Annexure 'B' to the application).

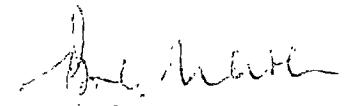
3. The respondents in their reply have stated that the application is misconceived and his pay has been fixed correctly under para 7(1)(C) of the notification as has been replied by the respondents on 18/12/86. The rules clearly indicate that the employees in receipt of spay pay in the pre-revised scale continue to enjoy the benefit of special pay under Rule 7(1)(C) and in terms of the recommendations of the Fourth Pay Commission, the special pay, wherever admissible, is to be doubled subject to a ceiling of Rs. 500/. The pay of the applicant has been fixed under Rule 7(1)(C) and he has also been allowed the double special pay which he was drawing before the 4th Pay Commission's report. The applicant accepts this position, but says that his pay should have been fixed under Rule 7(1)(B) and not under Rule 7(1)(C).

4. I have gone through the C.C.S. (R.P.) Rules, 1986 based on the report of the 4th Pay Commission. Rule 7(1)(C) says that "in the case of employees who are in receipt of special pay in addition to pay in the existing scales and in whose case special pay continues with the revised scale of pay either at the same rate or at a different rate, the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above with reference to existing emoluments calculated in accordance with the Explanation thereto, after excluding the existing special pay and the amounts admissible thereon with reference to dearness pay etc.....and in such cases special pay at the new rate shall be drawn in addition to the pay so fixed in the revised scale."

5. Rule 7(1)(B) refers to the cases of employees who are in receipt of special pay in addition to pay in the existing scale and where the existing scale with special pay has been replaced by a scale of pay without any special pay, in such cases the pay shall be fixed in the revised scale. The case of the applicant clearly falls under Rule 7(1)(C) because he was in receipt of a special pay in addition to the pay and the same position continues when he gets the revised pay scale according to the report of the Fourth Pay Commission. The nature of job and the post remains the same.

Only the pay scale has been revised and the dearness allowance done away with. Rule 7(1)(B) would be applicable to cases where the special pay in the revised scale may have been merged with the new revised scale which is not applicable to the applicant.

6. The applicant has stated that the revision of pay under Rule 7(1)(B) has been allowed in similar cases in some other Departments and, therefore, it would amount to discrimination if he is denied the same. It is not relevant how the pay scales have been fixed in other Departments, but the case of the applicant that his pay should be fixed under Rule 7(1)(B) and not under Rule 7(1)(C) cannot be accepted as the Rule appears to be very clear. It is, therefore, held that since his pay in the revised scale of the U.D.C. has been fixed correctly and he has been allowed double the special pay, he has no cause for any grievance. The application is, therefore, rejected. There will be no order as to costs.



(B.C. Mathur)  
Vice-Chairman