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In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No. 1029/87

Date of decision: 08.12.1992.

Shri B.K. Sibal

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Urban
Development & Another

...Respondents

Courtesy:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri Raju, proxy counsel for Shri J.P. Verghese, Counsel.

For the respondents

Shri V.S.R. Krishna, proxy counsel for Shri M.L. Verma, Counsel.

Judgement (Oral).

(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner, Shri B.K. Sibal, Assistant Engineer in the Central Designing Organisation of the Central Public Works Department (CPWD for short), New Delhi complains in this case that he has not been granted special pay. His case is that he has been discriminated against in the matter of sanctioning special pay to him, having regard to the fact that special pay has been sanctioned to those holding positions superior as well as inferior to the one held by him in the Central Designing Organisation of the

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CPWD. There does not appear to be any dispute so far as the factual aspect is concerned. The Third Central Pay Commission did not in terms sanction any specific amount as special pay to the Engineering Personnel of the Designing Division of the CPWD. It recorded its recommendation that they are entitled to grant a special pay and left it to the authorities to decide on the quantum, having regard to all the relevant circumstances. This is also admitted. The department did take steps to move in the relevant direction in this behalf. Ultimately, they did not pursue the matter on the ground that the Fourth Central Pay Commission having been constituted in the meanwhile, it would be more appropriate that the said Pay Commission examines this issue. This was quite an erroneous view taken. The Third Central Pay Commission already having taken the decision that the special pay should be granted and quantum of special pay left to be determined by the department concerned the question of leaving this question to the Fourth Central Pay Commission did not arise. So far as the Fourth Central Pay Commission is concerned, it did not examine the question as to who should be granted special pay and who should not? All that it recommended is to enhance the special pay by 100%. Thus, the problem of the petitioner remained without being solved despite of a positive direction by the Third Pay Commission in his favour.

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2. In the circumstances, it is but proper that we issue appropriate directions to the respondents to grant the relief which was recommended by the Third Central Pay Commission and which was accepted by the Government. This petition is, therefore, partly allowed and the respondents are directed to fix the amount of special pay, to be granted to the petitioner, having regard to his responsibilities, duties and functions in the Designing Division of the CPWD, bearing in mind the special pay granted to other comparable positions. The arrears due as a consequence thereof shall be calculated and paid to the petitioner, Shri B.K. Bihal w.e.f. 1.8.1987. This shall be done within a period of four months from this date. No costs.

Dulipji
(T.K. Rasgotra)
Member (A)

Melimath
(V.S. Melimath)
Chairman

REB:

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