

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1185
T.A. No.

1987

DATE OF DECISION 16.3.1989

Shri T.R.Taneja

Petitioner

Petitioner in person.

>Advocate for the Petitioners)

Versus

Union of India & others

Respondents

Shri M. L. Verma.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. KAUSHAL KUMAR, MEMBER (A)

The Hon'ble Mr. T. S. OBEROI, MEMBER (J)

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 it needs to be circulated to other Benches of the Tribunal? No

MGIPB RND-12 CAT/86-3-12-86-15,000

(T. S. OBEROI)
MEMBER (J)

16.3.89

(KAUSHAL KUMAR)
MEMBER (A)

16.3.89

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. OA 1185/87

Date of decision: 16.3.1989.

Shri T.R.Taneja

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Applicant

Vs.

Union of India & others

Respondents

CORAM: Hon'ble Mr.Kaushal Kumar, Member(A)
Hon'ble Mr. T.S.Oberoi, Member(J)

For the Applicant

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Applicant in person.

For the Respondents

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Shri M.L.Verma, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr.Kaushal Kumar, Member(A).)

JUDGEMENT

The applicant who is a Stenographer Grade 'A' in the office of Controller General of Accounts, Ministry of Finance, Department of Expenditure, has in this application filed under Section 19 of the Administrative Tribunals Act, 1985 challenged the Notification dated 13.9.1986 issued by the Government of India, Ministry of Finance(Department /Expenditure)(filed as Annexure 4 to the application) by which the Central Civil Services (Revised Pay) Rules 1986 were notified giving effect to the recommendations of the Fourth Pay Commission retrospectively from 1.1.1986.

2. The facts of the case may be briefly noticed as follows. The applicant was appointed as a Grade 'C' Stenographer in the Central Secretariat Stenographers Service through the Union Public Service Commission on 8.5.56 in the pay scale of Rs.425-800. He was promoted as a Stenographer, Grade 'B' in the pre-revised scale of Rs.640-1040 on 21.5.1977. Thereafter he was promoted as a Stenographer, Grade 'A' with effect from 6.8.86 in the pre-revised scale of Rs.650-1200/- . The applicant was promoted on the basis of a select list for promotion to

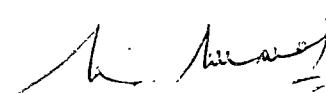
Grade 'A' Stenographer prepared in the year 1985. On his promotion to the post of Stenographer, Grade 'A' in the scale of Rs.650-1200 the pay of the applicant was fixed under Fundamental Rule 22-C at Rs.1120. The applicant was drawing a pay of Rs.1040 in the pre-revised scale of Grade 'B' Stenographer on 1.1.1986 and his pay was fixed at Rs.3050 in the revised scale of Rs.2000-3500 which came into force after merging Grade 'A' and Grade 'B' Stenographers into one scale with effect from 1.1.1986. After his promotion from 6.8.86 the pay of the applicant was not again revised and remained fixed at Rs.3050/-.

3. The grievance of the applicant is that in the process of merger of Grades 'A' and 'B' of the Stenographers he has not derived any financial benefit by virtue of his promotion since his pay was not again fixed under Fundamental Rule 22-C in the revised scale as was done in the old pre-revised scale on his promotion to Grade 'A' Stenographer's post.

4. The reliefs claimed by him in the application run as follows:-

"Restoration of applicant's appointment as Grade 'A' of CSSS with effect from 6.8.86 with all the benefits-

(i) by fixation of his pay, first as Grade B at Rs.3050(if necessary, by assuming a notional revised scale of Rs.2000-60-2300-EB-75-3200 recommended for general posts by the Fourth Pay Commission against the existing scale of Rs.650-1040) and then on 6.8.86 at Rs.3200 in the scale of Rs.2000-60-2300-EB-3200-100-3500 without affecting his seniority position; thereafter, he may, as usual, be allowed annual increments falling due on 1.8.87 and 1.8.88 raising his pay to Rs.3300 and Rs.3400 respectively unless he gets promotion in between which, of course, is a remote possibility, as he is due to retire within



two years;

Or

(ii) by giving effect to the decision on merger of Grades A and B of CSSS from the date of issue i.e. 13.9.86 (Nobody will be adversely affected);

Or

(iii) Government may evolve any other appropriate method to save the applicant from this huge financial loss of recurring nature arising only from "retrospective" effect given to a government decision and not from any other reason or fault on the part of the applicant, by acting upon its own certificate of protection that "the retrospective effect being given to these rules will not affect adversely any employee to whom these rules apply".

5. We have heard the applicant and considered his contentions carefully. What in effect he has contested in the present application is the merger decision of Grades 'A' and 'B' of the Central Secretariat Stenographers Service and introduction of the revised pay scale of Rs.2000-3500 w.e.f. 1.1.86 in lieu of the pre-revised scales of Rs.640-1040 and Rs.650-1200. There was no recommendation of the Fourth Pay Commission in the case of Stenographers for giving a notional revised pay scale of Rs.2000-3200 in lieu of the scale of Rs.640-1040 as might have been done in the case of some other categories of posts under the Central Government. The applicant cannot claim fixation of his pay in a scale which is not in existence in so far as the category of Stenographers Grade 'B' is concerned. The pay of the applicant in the revised pay scale of Rs.2000-3500 was fixed w.e.f. 1.1.86 at Rs.3050 with reference to his pay in the pre-revised scale of Grade 'B' Stenographer namely Rs.640-1040 and if this fixation were to be done with reference to his pay of Rs.1120 in the pre-revised scale of Rs.650-1200 i.e. the pay which was fixed

A. Murali

under Fundamental Rule 22-C on his promotion as Stenographer Grade 'A' on 6.8.86, his pay in the revised scale of Rs.2000-3500 would have been fixed at the same amount of Rs.3050 on the basis of the pay fixation formula. This position is not contested by the applicant. The applicant who argued in person pleaded that he had not been given any financial benefit because of his promotion inasmuch as the pay which he would have drawn in the revised scale as Grade 'B' Stenographer remained the same even after his promotion as Grade 'A' Stenographer with reference to his pay fixed in the revised scale. Whereas this may not have given benefit to the applicant financially in the matter of pay fixation as a result of his promotion to Grade 'A' w.e.f.6.8.86, it cannot be denied that there has been substantial financial gain to the applicant under the revision itself of the pay scales as they stood before the merger and the revised pay scale adopted by Government on the recommendations of the Fourth Pay Commission for two Grades 'A' & 'B' of Stenographers. The question of re-fixation of pay under Fundamental Rule 22-C in the revised scale on promotion w.e.f.6.8.86, as contended by the applicant, does not arise since pay in the same scale had already been fixed w.e.f.1.1.86.

6. The Notification dated 13.9.86 was issued by the President in exercise of the powers conferred by the proviso to Article 309 of the Constitution under the title Central Civil Services(Revised Pay) Rules, 1986. These Rules have been issued in exercise of legislative power vested in the President and they are uniformly applicable to all members of the Service covered by the said Rules. There is no discrimination or disparity between the members of the same Service and the Rules cannot be considered

M. Murali

as violative of Articles 14 and 16 of the Constitution.
We uphold the validity of the Rules notified vide
Notification dated 13.9.1986 and find no merit in the
present application which is accordingly dismissed with
no order as to costs.

Oberoi
(T.S.OBEROI)
MEMBER(J)
16.3.1989

K. Kumar
(KAUSHAL KUMAR)
MEMBER(A)
16.3.1989