

22.8.1990

Present: Shri Sant Lal, counsel for the applicants.

Shri Shree Chand, Asstt. Superintendent on behalf of the respondents.

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking consideration of impugned orders dated 7.8.1989 (page 13 & 14 of the petition) and claiming fixation of pay, by including special pay at the rate of Rs.35/- per month, on promotion of the applicants from the post of UDC to L.S.G.

Notice of the OA was given to the respondents for filing counter etc, ^{and,} though no counter has been filed by the respondents, the departmental representative, appearing on behalf of the respondents, informed us that the department has since issued orders on 25.7.90, accepting the claim of the applicants. We have perused the prayer clause in the OA, together with the copy of the order issued by the department, as mentioned above. In the order, it has been mentioned:

"The benefit will be given to the official from 1.9.85 without payment of any arrear."

We have considered this aspect of the case and feel inclined to hold that declining the arrears as mentioned in the order is not justified, as only the emoluments taken for fixation of pay on promotion to LSG, are under-going a change. The re-fixation of pay is not linked to the responsibilities and the duties of the post held by the applicants on promotion. It will, therefore, be in the interest of justice that the date from which the re-fixation is due, the same is done with consequential benefits. We, therefore, order and direct that the revised re-fixation shall be done w.e.f. 1.9.85 as ordered by the respondents, but the applicant shall be paid the arrears w.e.f. 1.9.85.

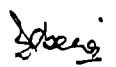
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Learned counsel for the applicant prays that the applicants should be allowed interest and the cost on the differential amount which would become payable to the applicants. In this connection, he cited the Hon'ble Supreme Court's decision in the case of O.P. Gupta Vs. Union of India reported in SLJ 1988(1) page 121. We have perused the citation referred ^{to} above but the circumstances in the case are different. In this case, only re-fixation is involved taking into account the special pay of Rs.35/- which was granted to certain identified posts of UDCs, subject to certain conditions to be met for grant of the special pay. Apparently, erroneous fixation was done due to some confusion about meeting the conditions for re-fixation taking into account special pay of Rs.35/- per month.

In the circumstances, we are not inclined to accept the request for the interest or the cost.

The application is disposed of on the above lines.


(I.K. RASGOTRA)
MEMBER(A)


(T.S. OBEROI)
MEMBER(J)