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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

Regn.No. 2165/91

Date of decision: 07.04.1992.

Shri P.C. Misra

..Applicant

Vs.

Delhi Administration
through Chief Secretary

..Respondents

For the Applicant

..In person

For the Respondents

..Shri M.K. Sharma,
Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

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The applicant who is a DANICS Officer filed this application under Section 19 of the Administrative Tribunal's Act, 1985 praying that the respondents be directed to review and grant special pay of Rs.150/- per month to him with effect from April, 1985 and arrears thereof upto January, 1988 together with interest at the rate of 12% per annum.

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- and the learned counsel for the respondent
2. We have heard the applicant in person. The applicant belongs to Delhi and Andaman and Nicobar Islands Civil Service (DANICS) in which he began his career in 1975. While posted as a Land Acquisition Collector during the period from 1977-78, he was getting a special pay of Rs.50/- per month. From 1978 to 1985 when he was working as Under Secretary he has stated that he is entitled to a special pay of Rs.100/- per month. He has further stated that he became entitled to special pay of Rs.150/- per month with effect from April, 1985 when his junior, Shri X.K. Mahto was given such special pay.
3. The applicant was prosecuted in a corruption case in 1980 which ended in his acquittal in 1982. There were adverse remarks in his ACR for the period 1979-80. He was not allowed to cross the Efficiency Bar in view of the pending proceedings against him. He was not given promotion to the selection grade (non functional) in 1983 and 1984. He was, however, allowed to cross EB in 1985 and was granted selection grade in 1986 with effect from July, 1984.
4. The applicant has stated that he was allowed to cross the EB with effect from 1.5.80 pursuant to the judgment of this Tribunal in TA 847/85 delivered in 1987. The Tribunal also directed expunging of the adverse remarks in his ACR for the period 1979-80, vide judgment dated 1.3.90 in OA 526/89. The criminal proceedings initiated against him in connection with the corruption case in 1984 had to be dropped in view of the decision of the Supreme Court dated 15.2.1990 in SLP(Civil) No.6778/89.

5. The applicant has prayed that the respondents should be directed to review his case for the grant of special pay, after taking into account the aforesaid developments concerning him.

6. The contention of the respondents is that the application is barred by limitation as the applicant is claiming special pay with effect from 1985. According to them, the matter of granting of special pay is to be decided by the competent authority on the basis of fitness-cum-seniority. In other words, this is a matter to be decided by the competent authority in its subjective satisfaction.

7. The applicant had filed OA 502/87 in which he had sought for a direction to give to him a senior post commensurate with his seniority w.e.f. 16.4.85 when Shri Mahto who was junior to him was posted as Deputy Commissioner of Civil Supplies. Shri Mahto was also getting a special pay of Rs.100/- per month. In the judgment of the Tribunal dated 6.10.89 disposing of the said application, it has been noted that in February 1988, the applicant was posted as Joint Director (Agriculture) with a special pay of Rs.150/- per month. The Tribunal observed that appointment to the post bearing special pay are made ^{not} on the basis of seniority but on the basis of suitability. On this ground, the Tribunal found no merit in the application and the same was dismissed.

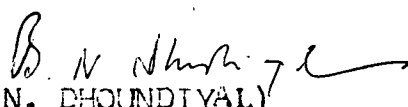
8. The applicant has also stated that he is drawing a special pay of Rs.300/- per month in the post of Deputy


Director (Technical) being held by him since February, 1988.

9. After hearing both sides, we feel that the question whether the applicant is entitled to special pay on the various posts held by him deserves to be reviewed, keeping in view the various developments in the court cases mentioned above, and in particular the dropping of the departmental proceedings initiated against him vide order dated 26.11.1990 pursuant to the directions given by the Supreme Court in SLP(Civil) No. 6778/89.

10. Accordingly, we dispose of the present application with the direction to the respondents to review the case of the applicant for the grant of special pay on the various posts held by him ~~from 1985 to 1988~~ from 1985 to 1988 in the light of the aforesaid developments. In case he is found suitable for the grant of special pay, the respondents shall pass appropriate orders as expeditiously as possible and preferably within a period of 4 months from the date of communication of this order.

There will be no order as to costs.


(B.N. DHOUNDIYAL)
MEMBER (A)


21/4/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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