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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 2254/91

DATE OF DECISION : 13.04.92

Shri Chander Bhan Gill

...Applicant

Vs.

Union of India

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri S.M. Hooda

For the Respondents

...Shri M.L. Verma

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? 2

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant is employed as Assistant Legal in the Department of Legal Affairs and he joined the post on 25.1.1985. The grievance of the applicant is against the orders dt. 19.1.1988, 15.4.1988, 26.10.1990 and 26.6.1991. The applicant has been told by these letters that in terms of Note 7 Below Rule 7 of CCS (RP) Rules, 1986, stepping-up of pay is not admissible in his case.

2. The applicant has claimed the relief for quashing these orders and that the applicant be awarded his first increment on 1.1.1986 of new pay scales with due arrears.

3. I have heard the learned counsel of the parties at length. The applicant joined admittedly on 25.1.1985 and his date of first increment will fall on 1.1.1986.

From 1.1.1986, the recommendation of the 4th Pay Commission has been applied and the revised scales have been fixed.

It is stated by the applicant that he represented for the first time for increment on new pay scales on 8.12.1986 and again on 31.7.1987. But his request was not acceded to.

The case of the applicant is that the old pay scales died on 31.12.1985 and so he should be given first increment on 1.1.1986. It is stated by the applicant that had he joined on 1.2.1985, one week later, he could have availed his increment on 1.2.1986.

4. The respondents contested the application and stated that the application, besides being barred by time, is devoid of merit. The applicant was appointed as Assistant (Legal) in the Ministry of Law and Justice in the pay scale of Rs.425-800 on 25.1.1985. On the revised pay scales of Assistant (Legal), i.e., Rs.1640-2900 w.e.f. 1.1.1986, he was granted an increment on 1.1.1986 raising his pay to Rs.1700 p.m. In view of Rule 8 of CCS (Revised Pay) Rules, 1986, he was granted an increment in the pre-revised pay scale on

1.1.1987 raising his pay to Rs.440 p.m. So the pay of the applicant was refixed at Rs.1640 w.e.f. 1.1.1986 and he was allowed to draw increment w.e.f. 1.1.1987.

5. As per the clarification at Sl.No.1 of the Ministry of Finance OM No.7(21)-E-III/87 dt.4.5.1987, the increment in the prrevised scale has to be allowed first on 1.1.1986 and pay fixed in the revised scale thereafter. As such, his pay was fixed in the revised scale of Rs.1640-2900 at the corresponding stage after granting him increment in the prrevised scale. Thus the applicant has no case. Further Note 7 of Rule 7 of CCS (Revised Pay) Rules, 1986 lays down as follows :-

"In cases, where a senior Government servant promoted to a higher post before the 1st day of January, 1986 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986, the pay of the senior Government servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Government servant subject to the

fulfillment of the following conditions, namely:-

(a) both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(b) the pre revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical, and

(c) the anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22-C or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior officer.

The orders relating to refixation of the pay of senior officer in accordance with the above provisions should be issued under Fundamental Rule-27 and the senior officer will be entitled to the next increment on completion of his required qualifying service with effect from the date of refixation of pay.

(2) Subject to the provisions of rule 5, if the pay as fixed in the officiating post under sub-rule (1) is lower than the pay fixed in the substantive post, the former shall be fixed at the stage next above the substantive pay."

6. It is not the case of the applicant that he has been discriminated nor he has said in the application that his junior is getting more pay. During the course of the argument, the applicant has also shown a chart, stating that Shri Satbir Singh Dahiya, who had his date of increment as 1.3.1986 and pay after increment has been fixed as Rs.1700, while the date of increment of the applicant is shown as 1.1.1987. But Shri Satbir Singh Dahiya is senior to the applicant and as such, he cannot have any grudge on that account. The applicant has stated that a person who joined later gets more pay than the applicant, but at the same time Shri Dahiya is not junior to him. In the list filed by the applicant himself, he is shown senior to the applicant and his pay cannot be stepped up on the basis of a junior getting more pay. Rule 8, therefore, relied by the applicant does not apply to his case.

7. Thus the present application is devoid of merit and is dismissed leaving the parties to bear their own costs.

AKS

J. P. Sharma
13.4.92
(J. P. SHARMA)
MEMBER (J)