

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

6

O.A. No. 2460/91
T.A. No.

199

DATE OF DECISION 01.05.1992

Shri Jagdish Ram Kataria

Petitioner Applicant

Shri B.B. Raval

Advocate for the Petitioner(s) Applicant

Versus

~~Re~~questor Commissioner of Police, Delhi and Another Respondent

Mrs. Avnish Ahlawat

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

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

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

The applicant, who has worked as a Sub-Inspector in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to allow him the revised scale in his pay and the consequential benefits in his subsistence allowance w.e.f. 1.1.1986.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant had filed suit No. 767/85 in the Court of Senior Sub-Judge, Delhi which stood transferred to this Tribunal as TA-404/86 and the same had been disposed of by judgement dated 2.1.1987. The applicant had challenged the order of

a

(A)

his dismissal from service and had prayed for issuing a direction to the respondents to reinstate him with all consequential benefits. The Tribunal allowed the petition, setting aside the impugned orders and directed the respondents to initiate departmental enquiry afresh in accordance with the Police Act and the relevant rules, keeping in view the observations made in the judgement. It was further held that he should be reinstated in service with effect from the date of his dismissal on 24.8.1983, but he should be considered to be under suspension from the date of his reinstatement till the disciplinary proceedings are completed.

3. In implementation of the aforesaid judgement, the respondents issued an order on 25.3.1987, whereby the applicant was reinstated in service and the dismissal order dated 24.8.1983 was revoked. It was further directed that the applicant would remain under suspension from the date of his dismissal till the finalisation of the departmental enquiry from the initial stage, as per the judgement of this Tribunal.

4. In the present application, the applicant has not challenged the action of the respondents in deeming him to be under suspension from the date of his dismissal after he was reinstated in service by order dated 25.3.87.

d

(8)

His prayer is confined to ~~the~~ allowing him the revised scale in his pay and consequential benefits in his subsistence allowance w.e.f. 1.1.1986. In other words, he has not claimed that he should be paid full pay and allowances from the date of his dismissal in 1983 to 25.3.1987, when he was reinstated. The fact that he is confining ~~to~~ the relief in the present application to the ~~subsequent~~ period from 1.1.1986 onwards, is also borne out from ground 'B' at page 5 of the application, wherein he has stated that "the approximate amount of Rs. 66,000/- only is due for payment towards the respondents for the period since 1.1.1986 to 30.6.1991".

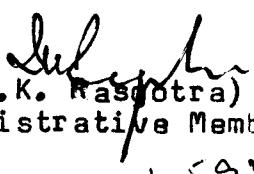
5. The respondents have contended that the applicant is not entitled to revision of the subsistence allowance and have relied upon the provisions of FR-53 and Government of India Order No.2 contained in O.M. dated 27.8.1958. In the instant case, the revision of the pay pursuant to the recommendations of the Fourth Pay Commission became effective from 1.1.1986 in the case of the Govt. employees. At that point of time, the applicant was under suspension. According to the O.M. dated 27.8.1958, the question of grant of revised scale of pay will arise only after reinstatement and that too depending on the fact whether the period of suspension is treated as 'duty' or not.

....4...,

(A)

6. The respondents have stated that the applicant stands dismissed from service vide order dated 4.6.1991 and that he has not been reinstated in service. The applicant has stated in the application that he has made a representation to the Additional Commissioner of Police on 25.7.1991 against the impugned order of dismissal from service.

7. In the light of the foregoing, we are of the opinion that the applicant is not entitled to the relief sought in the present application at this stage. The question whether he would be entitled to the benefit of enhanced pay for the purpose of subsistence allowance w.e.f. 1.1.86, would depend on the decision taken by the authorities concerned on the representation made by him against the order of dismissal. We, therefore, hold that the present application has been filed prematurely and the relief sought by him cannot be granted at this stage. The application is disposed of accordingly. There will be no order as to costs.


(I.K. Rasgotra)
Administrative Member


1.5.92
(P.K. Kartha)
Vice-Chairman (Judl.)