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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.2462 of 1991

New Delhi : November /7 , 1994.

HON'BLE MR.S.R.ADIGE, MEMBER(A)

T.C.Arora,  
s/o Late Shri S.R.Arora,  
r/o 109-L,  
Aram Bagh,  
New Delhi -11055

.....Applicant.

By Shri A.K.Behra, Advocate.

Versus

Union of India  
through:

1. The Controller General of Accounts,  
Ministry of Finance,  
Department of Expenditure,  
Lok Nayak Bhawan,  
Khan Market,  
New Delhi.

2. The Chief Controller of Accounts,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.

.....Respondents.

By Shri V.S.R.Krishna, Advocate.

JUDGMENT

In this application, Shri T.C.Arora, Senior Accountant , Office of the Controller General of Accounts, Finance Ministry, New Delhi has impugned the order dated 30.5.91(Annexure-A10) and 18.6.91 (Annexure-A11) and prayed for a declaration that he was entitled to special pay @ Rs.35/- per month even after 1.12.84, together with arrears and interest thereon, as well as pay fixation under Rule 7(1) (B) CCS(Revised Pay) Rules,1986 after taking into consideration the said special pay.

2. Admittedly, in 1979, the applicant was working as Junior Accountant with the respondents.

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By O.M. dated 5.5.79(Annexure-A1), the Finance Ministry granted special pay of Rs.35/- p.m. to those UDCs in the non-Secretariat Administrative Offices attending work of a more complex and important nature, subject to the total number of such posts being limited to 10% of the posts in the respective cadre, and such posts being duly identified. By O.M. dated 24.3.81(Annexure-A2), these instructions were extended to Junior Accountant also w.e.f. 20.1.81, subject to the same conditions. The post on which the applicant was working as Junior Account in 1981 was identified as one such post and he was sanctioned special pay @ Rs.35/- p.m. w.e.f. 16.5.81 vide order dated 22.8.81 (Annexure-A3).

3. The applicant's case is that he was promoted as Senior Accountant (non-functional) in the pre-revised scale of Rs.425-700/- w.e.f. 1.12.84, but continued to perform the same duties and functions as Junior Accountant, but the special pay of Rs.35/- p.m. was discontinued w.e.f. 1.12.84 probably under the mistaken impression that Senior Accountants were not entitled to that benefit, although GOI did clarify that even Senior Accountants were entitled to it. Consequent to the 4th Pay Commission recommendations, GOI revised the pay scales w.e.f. 1.1.86 and abolished special pay with effect from that date. However, on the question whether special pay had to be taken into account for fixing pay under the CCS(Revised Pay) Rules, the

Tribunal had held that the same had to be taken into account and pay had to be fixed under Rule (1) (B) CCS(Revised Pay ) Rules, which benefit was extended to all concerned employees vide O.M. dated 8.5.89(Annexure-A4), including Senior/Junior Accounts vide O.M. dated 29.5.89 (Annexure-A5). The applicant submits that he made several representations for grant of special pay till 1.1.86 and consequent to pay fixation under Rule 7(1) (B) CCS(RP) Rules, which were rejected and his appeal acceded no consideration, compelling him to file this O.A.

4. The respondents in their reply have challenged the O.A. and state that while it is true that the applicant was promoted as Senior Accountant (non-functional) w.e.f. 1.8.84, he opted for the benefit of promotion w.e.f. 1.12.84 in the pre-revised scale of Rs.425-700. Meanwhile by Finance Ministry's O.M. dated 3.2.83 (Annexure-R2) Senior Accounts were also made eligible for the special pay of Rs.35/- p.m. and the special pay was granted to the Seniormost Senior Accountant within the 10% limit. By virtue of his promotion, the applicant remained no more amongst the seniormost Junior Accountants, but came within the category of juniormost Senior Accountants, and thus did not remain eligible for the special pay after his promotion. It has further been contended that the applicant was granted pay protection during his promotion and as such he had already denied

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benefit of special pay for pay fixation as Senior Accountant and benefit on same account cannot be granted twice. As the applicant was not drawing special pay on 31.12.85, the same was not taken into account for pay fixation w.e.f. 1.1.86 and further more, attention has been drawn to para 3 of O.M. dated 25.7.89, specifying that special pay of Rs.35/- pm. would not be taken into account for pay fixation on appointment to non-functional selection grade as the same was not a promotional grade.

5. I have heard Shri Behra for the applicant and Shri Krishna for the respondents. I have also perused the materials on record and considered the matter carefully.

6. Admittedly, the applicant was drawing the special pay of Rs.35/- p.m. as one of the seniormost Junior Accountants within the 10% limit laid down vide O.M. dated 24.3.81. This special pay was discontinued w.e.f. 1.12.84 consequent upon the applicant's promotion as Senior Accountant (NF) and consequent to pay fixation in the pre-revised scale of Rs.425-700 from that date. The applicant has argued that there was no change in his duties and responsibilities which continued as before, but there is merit in the contention of the respondents that what might be <sup>a</sup> work of complexity to a Junior Accountant, even if he was the seniormost amongst them, may no longer remain complex once that person had gained experience, and had been promoted as

a Senior Accountant . Thus even if the duties and responsibilities continued to remain unchanged, the individual himself had undergone a change, and what was complex to a junior person was not complex to a senior person. That apart, from the additional affidavit dated 5.9.94 filed by the respondents and its ~~employees~~<sup>an</sup> which are on record, it appears that there were 43 sanctioned posts of Sr/Jr. Accountants in the Office of the applicant (PAO/FZ) and 10% thereof i.e. four posts were eligible for special pay. Out of these four posts, three were assigned to the Junior Accountants quota as their strength was larger, and one to the Senior Accountants Quota. The applicant as the seniormost Junior Accountant continued to draw the special pay, but upon his promotion as Senior Accountant he became the juniormost amongst them, and no longer became entitled to the special pay. Accordingly, it was withdrawn from him, and granted to another amongst the seniormost Junior Accountants namely Shri O.S. Chopra who was working on the GPF seat which had been declared complex and arduous vide letter dated 7.5.81. Only one seat in the Senior Accountant Quota was eligible for special pay, and as that seat was already occupied, the applicant could not be granted special pay, and as he was not drawing special pay on 31.12.85, the same could not be considered for pay fixation w.e.f. 1.1.86.

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7. Shri Behra for the applicants has relied upon the case of P.K.K.Nair Vs. Chief Controller Accountant & others- 1991 (17) ATC 434 to support his argument that entitlement to special pay is not dependent on seniority or merit, but goes to the person actually holding the post carrying the special pay, because special pay is attached to the post, on account of its onerous and complex nature and not to the person. This proposition is unexceptional<sup>le</sup>, but as discussed above, duties and responsibilities which may be looked upon onerous and complex at a certain level in a person's career, which qualify for grant of special pay, may not continue to remain onerous and complex even after that person has gained experience and has consequently been promoted, to justify the continuance of that <sup>special</sup> pay.

8. That apart, it is also noticed that while the special pay was withdrawn from the applicant w.e.f. 1.12.84, he represented against the withdrawal for the first time as late as on 30.6.89 i.e. after a gap of over 4½ years. At the time, the special pay was withdrawn, the applicant raised no objection. Those who seek to enforce their rights, are required to be vigilant on that score, and not to sleep over them.

9. Thus, on account of delay as well as on the <sup>merits</sup> of the case, no good grounds have been

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made out to warrant any interference by this Tribunal and this application fails. It is, therefore, dismissed.

10. No costs.

*Adige*  
(S.R. ADIGE)  
MEMBER (A)

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