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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2474/91

DECIDED ON : 8.1.1993

N. C. Jain

... Applicant

Vs.

Union of India & Anr.

... Respondents

CORAM : THE HON'BLE MR. P. C. JAIN, MEMBER (A)

Shri Umesh Misra, Counsel for the Applicant

Mrs. Avnish Ahlawat, Counsel for the Respondents

J U D G M E N T (ORAL)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is posted as Cash Clerk in the Delhi Milk Scheme is aggrieved by the alleged incorrect fixation of pay in the revised scale of the post w.e.f. 1.1.1986 in pursuance of the recommendations of the Fourth Central Pay Commission. He has prayed for the following reliefs :-

- *a) declare that the applicant is entitled to the benefits of bunching under note 3 below rule 7 of CCS (RP) Rules, 1986 and he is entitled to two increments above Rs.1230/- w.e.f. 1.1.1986;
- b) declare that the applicant has statutory right to be fixed at Rs.1290/- w.e.f.1.1.86;
- c) direct the respondents, to give proper fixation and pay the arrears of salary along-with interest @ 24% per annum and also direct to pay other consequential benefits and allowance accrued to him;
- d) any other relief or relief which this Hon'ble Tribunal deems fit and proper may kindly also be granted;
- e) cost of the present application also be granted, in the interest of justice."

2. The respondents have contested the O.A. by filing their reply to which a rejoinder has also been filed by the applicant. I have

perused the material on record and also heard the learned counsel for the parties.

3. It is common ground between the parties that the applicant was drawing pay of Rs.358/- in the pre-revised scale of Rs.290-6-326-8-350-EB-8-390-10-400 and that the corresponding revised scale is Rs.1200-30-1440-EB-30-1800. There is also no dispute between the parties that the pay of the applicant in the revised scale of Rs.1200-1800 was to be fixed in accordance with rule 7 of the C.C.S. (Revised Pay) Rules, 1986. Note 3 under the aforesaid rule 7 on which both the parties have placed reliance in support of their rival contentions, is extracted as below :-

"NOTE 3.—Where in the fixation of pay under sub-rule (1) the pay of Government servants drawing pay at more than five consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first five consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner, namely :-

- (a) for Government servants drawing pay from the 6th up to the 10th stage in the existing scale - By one increment;
- (b) for Government servants drawing pay from the 11th up to the 15th stage in the existing scale, - if there is bunching beyond the 10th stage - By two increments;
- (c) for Government servants drawing pay from the 16th up to the 20th stage in the existing scale, - if there is bunching beyond the 15th stage - By three increments.

If by stepping up of the pay as above, the pay of a Government servant gets fixed at a stage in the revised scale which is higher than the stage in the revised scale at which the pay of a Government servant who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up only to the extent by which it falls short of that of the former."

Reference in this note is also made to ready reckoners enclosed with the aforesaid rules.

4. Admittedly, the applicant was drawing pay at the 11th stage in the pre-revised scale of Rs.290-400 and as his pay as

(a)

fixed in the revised scale gets bunched he is entitled to the benefit of pay fixation in the revised scale in accordance with the provisions of note 3 ibid. With their counter, the respondents have enclosed as Annexure R-1 a table in regard to the pay at various stages in the old scale and the existing emoluments for purposes of fixation of pay in the revised scale and the pay to be fixed on that basis in accordance with the provisions of the rules in the revised scale in case of the applicant. For appreciation of the rival contentions of the parties, it is extracted as below :-

*Pre-revised scale -Rs.290-6-326-8-350-EB-10-400
Revised scale -Rs.1200-30-1440-EB-30-1800.

No. of Stages.	Stage in the existing scale.	Emoluments in the revised scale.	Pay to be fixed in the revised scale in the normal circumstances.	Pay to be fixed under Rule.
1.	Rs.290/-	1032.40	Rs.1200/-	
2.	Rs.296/-	1081.70	Rs.1200/-	
3.	Rs.302/-	1077.30	Rs.1200/-	
4.	Rs.308/-	1093.10	Rs.1200/-	
5.	Rs.314/-	1109.00	Rs.1200/-	
6.	Rs.320/-	1124.80	Rs.1200/-	1230/-
7.	Rs.326/-	1140.60	Rs.1200/-	1230/-
8.	Rs.334/-	1161.80	Rs.1200/-	1230/-
9.	Rs.342/-	1182.90	Rs.1200/-	1230/-
10.	Rs.350/-	1204.00	Rs.1230/-	
11.	Rs.358/-	1225.10	Rs.1230/-	
12.	Rs.366/-	1246.20	Rs.1260/-	
13.	Rs.374/-	1267.40	Rs.1290/-	
14.	Rs.382/-	1288.50	Rs.1290/-	
15.	Rs.390/-	1309.60	Rs.1320/-	
16.	Rs.400/-	1336.00	Rs.1350/-	"

From the above it is clear that the benefit of additional increments while fixing pay in the revised scale is admissible in only those cases where the Government servants are drawing pay at more than five consecutive stages in the existing scale. In other words, for those who were drawing pay at any of the five stages in the old scale even if there is bunching no benefit is allowed under the provisions of note 3 under rule 7 of the C.C.S. (Revised Pay) Rules, 1986. As the applicant was drawing pay

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at more than five consecutive stages he was entitled to benefit of one increment from the 6th up to the 10th stage which takes his pay to Rs.1230/- instead of Rs.1200/-. As there is no bunching beyond the 10th stage, he is not entitled to the second increment in view of the provisions of clause (b) of note 3 *ibid*. As such, the claim of the applicant for more than two increments on account of bunching under the provisions of note 3 under rule 7 is misconceived. It may, however, be observed that if as a result of application of the provisions of note 3 under rule 7 *ibid*, the pay of any of his colleagues who were junior to the applicant in the old scale of Rs.290-400 gets fixed as on 1.1.1986, or on the date of increment next falling after that^{C.}, as the case may be, depending on the option which might have been exercised by such a junior, the pay of the applicant would be required to be stepped up to the extent of short fall as provided in note 3 itself.

5. Subject to the above, the O.A. is dismissed as devoid of merits^{C.}, leaving the parties to bear their own costs.

(P. C. Jain)
Member (A)