

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 2670/91.

Date of decision 5.5.93

Shri S.D. Sharma ... Applicant
and Another.

v/s

Union of India ... Respondents
and Another.

CORAM:

The Hon'ble Shri B.S. Hegde, Member (Judicial)

For the Applicant ... None

For the Respondents ... Shri M.L. Verma, counsel.

(1) Whether Reporters of local papers may be allowed
to see the Judgement?

(2) To be referred to the Reporter or not ?

JUDGEMENT

Delivered by Hon'ble Shri B.S. Hegde, Member (J) 7

The applicant has filed this application

under Section 19 of the Administrative Tribunals

Act, 1985 seeking the following reliefs :-

(1) The Hon'ble Tribunal may graciously be
pleased to give direction or order to the
respondents to re-fix under Rule 7(1)(B)

of CCS (RP) Rules, 1986, pay of the

applicant w.e.f. 1.1.1986 after taking

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into account Special Pay of Rs. 35/-

as part of their 'existing emoluments',

and to pay accordingly the arrears of

Pay and allowances with interest thereon

w.e.f. 1.1.1986 to date.

(2) The Hon'ble Tribunal may graciously be pleased to give directions or orders to the respondents to grant the applicants Special Pay of Rs. 35/- w.e.f. 5.5.1979 to 30.4.1985 after deducting the duty allowance at the rate of Rs. 40/- p.m. already paid to the applicants. The applicants may accordingly be paid arrears of pay and allowances with interest thereon for the said period.

(3) The Hon'ble Tribunal may graciously be pleased to award costs.

2. In short, the applicant was appointed as U.D.C. in the year in the year 1962 in the office of Defence Accounts Department. Later on, the said post has been designated as Auditor. The main prayer is to give direction to the respondents

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to refix under Rule 7(1)(B) of CCS (RP) Rules, 1986

Special Pay of Rs. 35/- paid to him, should be treated as a part of his existing emoluments and to pay accordingly the arrears of pay and allowances with interest etc. Admittedly, the special pay was granted to Secretariat Administrative Officers in the year 1979 (Annexure A-1), the special pay was stopped by reason of applicant being posted to perform supervisory duties. In this connection, the representation made by the applicant in the year 1979 stating that his pay may be fixed after taking into consideration special pay of Rs. 35/- w.e.f. 1.1.1986 (Annexure A-10).

The respondents replied to his representation stating his pay was fixed after taking into account the element of special pay of Rs. 35/- in the revised scale w.e.f. 1.1.1986 and not Rs. 40/- being paid on account of supervisory allowance.

3. As against this, the respondents have filed a reply stating that the application itself is not maintainable and no cause of action is accrued in favour of the applicant against the respondents and is devoid of any merit. Further, the applicant has filed a belated application seeking reliefs from 5.5.79 to 30.4.85. He further contends that the Government has decided to grant special of Rs.35/- to UDC in the scale of Rs.330-560 working in the Non-Secretariat Administrative Office and in cases of complex nature subject to the limitation of 10% of the

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total strength of U.D.C. posts in the cadre w.e.f.

5.5.1979 it is not denied that the benefit of judgement has been extended to the similarly placed persons but since the applicant do not come under those categories as they were in receipt of Supervisory Duty Allowance, his request could not be acceded to.

4. The short point for consideration is whether in the light of the pleadings of the parties, there is any merit in the petition. The averments of the respondents have not been denied except saying that the special pay of Rs. 35/- should be merged with the pay though they have been receiving supervisory allowance of Rs. 40/- from 1986 onwards. It is clear from the circular received by the department that once the U.D.C. come into the supervisory, category, he will not be given special pay of Rs. 35/- and on the other hand, he would be granted Rs. 40/- for supervisory work.

5. The Learned Counsel for the respondents draws my attention that though the cause of action thus arose as early as on 5.5.1979, this application is filed only in February, 1992. Therefore, the case is barred by limitation in view of Section 21 of the Administrative

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Tribunal Act, 1985. There is a considerable force in the respondent's plea.

6. In the light of the above, I do not see that there is any substance in the application. I am of the view that the O.A. is barred by limitation under Section 21 of the Administrative Tribunal Act and deserves to be dismissed apart from devoid of merit. I am satisfied that the relief prayed for by the applicant has been substantially conceded and there is no reason for me to interfere in this matter. The O.A. is accordingly ~~disposed of~~ ^{dismissed by}. No order as to costs.

(B.S. HEGDE)
MEMBER (J)

B.S. Hegde 5/3/93