

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.518/91

DATE OF DECISION: 1.10.1991

SHRI B.P. SINGH

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

THE HON'BLE JUSTICE MR. RAM PAL SINGH, VICE-CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

IN PERSON

FOR THE RESPONDENTS

SHRI P.H. RAMCHANDANI, SENIOR
COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

The short point raised for consideration in this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985 is whether the applicant is entitled to exercise an option for fixation of pay in the selection grade granted to him between 1.1.1986 and 12.9.1986 in terms of Department of Expenditure, Ministry of Finance OM dated 10.1.1977.

2. Briefly the case of the applicant, who appeared in person, is that he was appointed to the selection grade w.e.f. 4.8.1986 before the promulgation of the recommendation of the Fourth Central Pay Commission and according to the Ministry of Finance (Department of Expenditure) OM No.F.7-(10)/E/3/83 dated 27.8.1983 he was entitled to have his pay fixed after earning the next increment in the ordinary grade, subject to his exercising an option to that effect within one month from his appointment to selection grade. He, exercised his option on 3.3.1987. The above option was not accepted by the respondents, resulting in loss to him by way of fixation

of pay at a lower level in the revised scales of pay, implemented w.e.f. 1.1.1986. His next contention is that in identical circumstances his contemporary Shri S.P. Gambhir was allowed the benefit of fixation of pay and appointment to the selection grade in accordance with his option in the ordinary grade.

3. Shri P.H. Ramchandani, Senior Counsel for the respondents referring to the counter-affidavit submitted that the scheme of non-Functional Selection Grade was abolished on the recommendations of the Fourth Central Pay Commission and consequently the provisions contained in Department of Expenditure, Ministry of Finance OM dated 28.7.83 are non-operative from 1.1.1986. The applicant was accordingly not eligible for having his pay fixed on the date of his next increment in the ordinary grade when he was appointed to the selection grade despite the option exercised by him. The learned senior counsel submitted that the pay of the applicant has to be regulated in accordance with the Ministry of Finance (Department of Expenditure) letter dated 14.5.1987. Regarding the pay fixation of Shri S.P. Gambhir, the contemporary of the applicant, the learned senior counsel stated at the Bar that the fixation of pay of Shri S.P. Gambhir is being reviewed by the respondents.

4. We have considered the matter carefully. The relevant portion of the Ministry of Finance (Department of Expenditure) letter dated 14.5.1987 reads as under:-

"(B)(i) In cases where a separate replacement scale corresponding to Selection Grade post has been prescribed under Central Civil Services (Revised-Pay) Rules, 1986 and where Selection Grade has been allowed in terms of this Ministry's O.M. No.7(21)-E.III(A)/74 dated 10.1.77 on or after 1.1.86 and before 13.9.86 and if a Govt. servant holding such Selection

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Grade post as on 12.9.86 has opted for revised scales of pay with effect from 1.1.86 with reference to post he was holding on 1.1.86, the initial pay of such an employee may first be fixed in the revised scale as on 1.1.86 under Central Civil Services (Revised-Pay) Rules, 1986 and thereafter with effect from the date on which he was appointed to the Selection Grade, post his pay in the revised replacement scale corresponding to prerevised Selection Grade scale may be fixed in accordance with the provision of this Ministry's O.M.No.7(21)E.III-(A)/74, dated 10.1.77 and such incumbents of Selection Grade post will carry the revised replacement scale as personal to them. In cases where such incumbents of Selection Grade Posts do not exercise their option for switching over to the revised scale with effect from 1.1.86, such employees may be allowed to carry the pre-revised Selection Grade Scales of pay as personal to them from the date of their appointment to such Selection Grade made, not later than 12.9.86."

It is observed from the above that the benefit of option is not available to the persons who are promoted to Selection Grade during the period 1.1.86 to 12.9.86. On the other hand, they have been given the benefit of fixation of pay in the revised scale of pay first in the scale of pay of the post held by them on 1.1.1986 and secondly re-fixation with effect from the date on which they are appointed to the selection grade. The applicant has accordingly been given the benefit, as provided in CCS (Revised Pay) Rules, 1986.

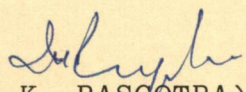
In the circumstances of the case we are of the view that the pay of the applicant has been fixed in accordance

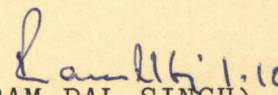
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with the Rules and that he is not entitled to the relief prayed for by him. His claim appear to rest solely on the fixation of pay allowed in the case of his contemporary, Shri S.P. Gambhir. Since the case of Shri S.P. Gambhir is under review, the grievance of the applicant shall normally cease to subsist, as soon as a decision in the review of fixation of pay of his contemporary is taken. We trust that the respondents will decide the case of Shri Gambhir within a reasonable period of time but not exceeding three months from the date of communication of this order. In case the applicant is not satisfied with the out-come of the review of the fixation of pay of Shri S.P. Gambhir and he is still aggrieved, he will be at liberty to approach the Tribunal, if so advised.

In the circumstances of the case, we do not see any merit in the application and the same is dismissed with no order as to costs.


(I.K. RASGOTRA)
MEMBER (A) 1/10/91


(RAM PAL SINGH)
VICE-CHAIRMAN 1.10.91

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