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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-565/91

Date of decision: 13.04.1992.

Shri S.C. Kumar Applicant

Versus

Union of India through Respondents
Lt. Governor, Union
Territory of Delhi & Ors.

For the Applicant Shri R.P. Oberoi, Advocate

For the Respondents Ms. Kum Kum Jain, Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

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

The applicant, who is working as a Head Armourer in the Directorate General of Home Guards & Civil Defence, is aggrieved by the action of the respondents in reducing the rate of Special Pay from Rs.30/- per month to Rs.20/- per month as per the impugned order dated 24.9.1990. He has sought for a direction to the respondents to restore

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to him the Special Pay at the rate of Rs.30/- per month and to pay him the arrears together with interest. He has also prayed that the element of Special Pay should be included in his pay to be refixed in the revised pay-scale w.e.f. 1.1.1986.

2. The respondents had ordered recovery for deduction at the rate of Rs.10/- per month from the amount of arrears admissible to him and calculated at the rate of Rs.20/- per month for the period from 1.1.1973 to 31.3.1979. By way of interim relief, he had sought for a direction to restrain the respondents from enforcing the same.

3. On 5.3.1991, the Tribunal passed an order directing the respondents not to effect any recovery or deduction at the rate of Rs.10/- per month from the arrears admissible to the applicant for the period from 1.1.1973 to 31.3.1979.

4. The facts of the case in brief are as follows. The applicant was employed as Head Armourer w.e.f. 13.12.1967 in the pay-scale of Rs.100-130 plus Rs.30/- as Special Pay. He is an Ex-Serviceman. His post is equated to that of a Head Constable of Police under the Delhi Administration. This has been admitted by the respondents in their counter-affidavit.

5. The Special Pay of Rs.30/- per month attached to the post of Head Armourer continued to be paid to the applicant till 31.3.1979 when it was discontinued without any notice to him. 

6. Consequent upon the implementation of the recommendations of the Third Pay Commission w.e.f. 1.3.73, the pay-scale of the post of Head Armourer was revised to Rs.260-350. Even thereafter, the Special Pay was continued till about 1975, when it was stopped for some time. Subsequently, the payment of Special Pay was recommenced and it continued to be so paid till 1.4.1979.

7. The applicant filed OA-543/87 in the Tribunal which was disposed of by judgement dated 21.2.1990. The respondents were directed to take a final decision in the matter within two months. The applicant was also given the liberty to file a fresh application in case he was aggrieved by the decision taken by the respondents.

8. The applicant filed CCP-138/90 alleging non-implementation of the aforesaid directions. During its pendency, the respondents issued the impugned order dated 24.9.1990 releasing arrears of Special Pay w.e.f. 1.4.79 to 31.12.1985. However, in the impugned order, the Special Pay allowed was Rs.20/- per month as against Rs.30/- per month which he was in receipt of.

9. The representation made by the applicant against the aforesaid reduction of Special Pay from Rs.30/- to Rs.20/-, did not yield any result. He has also challenged the decision of the respondents to recover from him the difference of Rs.10/- per month for the period from

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1.1.1973 to 31.3.1979 on the ground of the alleged over-payment.

10. The case of the applicant is that the pay-scales and other allowances attached to his post are analogous to the pay-scales and allowances for the officials of corresponding category of the Delhi Police. This has been admitted by the respondents in their counter-affidavit. However, they have raised the plea that the quantum or workload in the Directorate General of Home Guards and Civil Defence is less as compared to the workload in the Delhi Police.

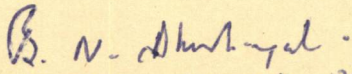
11. We have gone through the records of the case and have carefully considered the matter. The admitted factual position is that the pay-scales and other allowances attached to the post of Head Armourer were the same as the officials of corresponding category in the Delhi Police. We are not impressed by the arguments of the respondents that the workload in Delhi Police is more in the office in which the applicant has been employed. Apart from the aspect of workload, the respondents have not brought out any distinction between the two categories so as to justify their reduction of the Special Pay in the case of Head Armourer.

12. Another aspect of the matter is that the decision to discontinue Special Pay in the case of Head Armourer

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as well as to effect recovery from the arrears of the applicant, has been taken without giving a show-cause notice to the applicant. This is not legally tenable.

13. In the light of the above, we allow the application and set aside and quash the impugned decision contained in the latter dated 24.9.1990 issued by the Delhi Administration to the extent that it provides that Head Armourer should be given a Special Pay of ^{only a} Rs.20/- per month from 1.4.1979 to 31.12.1985. We direct that the applicant shall continue to be paid Rs.30/- per month as a Special Pay from the date of his appointment till 31.12.1985. We further direct that no recovery or deduction at the rate of Rs.10/- per month shall be effected, as proposed by the respondents. The interim orders passed on 8.3.1991 and 22.3.1991, are hereby made absolute. The respondents shall also pay the arrears of Special Pay to the applicant together with interest at the rate of 10% per annum. The prayer of the applicant that the Special Pay should be reckoned in his pay to be refixed in the revised pay-scale w.e.f. 1.1.1986, is allowed. The respondents shall comply with the above directions as expeditiously as possible, but preferably within three months from the date of receipt of this order. There will be no order as to costs.


(B.N. Dhoundiyal) 13/4/92
Administrative Member


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