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Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.45/2004

Friday, this the 29<sup>th</sup> day of October 2004

Hon'ble Shri Shanker Raju, Member (J)  
Hon'ble Shri S. K. Naik, Member (A)

Shri Narinder Kumar  
S/o late Shri Parkash Chand  
R/o D-75, Green Valley Apartment  
Rohini Sector-18  
Delhi-85

...Applicant

(By Advocate: Shri D.R. Gupta)

Versus

1. Union of India through Ministry of UD&PA  
Nirman Bhawan, New Delhi
2. The Director of Printing  
Ministry of Urban Development  
Nirman Bhawan, New Delhi
3. The Manager  
Govt. of India Press, Minto Road  
New Delhi

...Respondents

(By Advocate: Shri Madhav Panikar)

**ORDER (ORAL)**

**Shri Shanker Raju:**

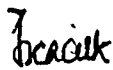
Heard the learned counsel for both the parties.

2. The issue in this case is merger of special pay of Rs.140/- in the basic pay for fixation as well as for grant of retrial benefits. The applicant, who has since been superannuated, has been accorded the special pay of Rs.140/-. By the impugned order dated 2.5.2001, the special pay has been withdrawn w.e.f. 30.3.2001 and had not been made part of the basic pay while fixing it for the purpose of retrial benefits.

3. We have perused the material placed on record as well as the point 18 (ii) of clarification under the Assured Career Progression scheme dated 9.8.1999. This has been done because the respondents have raised an objection that while on grant of ACP scheme, one is not entitled to the special pay and this should not be continued on grant of higher pay scale of the next promotional grade in ACP. We also find that

a clarification has been sought for while granting the same benefit to S.S. Yadav and on this, he has been accorded, vide order dated 12.11.2003, the benefit reckoning Rs.140/- for fixation of pay. This has been done as per the advice. The subsequent advice of the DOPT would not be acted retrospectively. Moreover being similarly circumstanced and of the same class, the applicant cannot be meted out a differential treatment, which would be invidious discrimination violating Articles 14 & 16 of the Constitution.

In these circumstances, the OA is allowed and the impugned orders are quashed. The respondents are directed to re-fix the pay of the applicant by taking into account the special pay of Rs.140/- and accordingly grant him all consequential benefits, including revision of his pension and retrial benefits. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

  
( S. K. Naik )  
Member (A)

/sunil/

  
( Shanker Raju )  
Member (J)