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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 704/2004

New Delhi, this the 7th day of December, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri Tejpal Singh Maan,
TGT in Govt. Boys Senior Secondary School,
No.1, Shakti Nagar,
Delhi

.....Applicant

(Applicant in person)

Versus

1. The Govt. of NCT of Delhi,
Rep. by Director,
Directorate of Education,
Distt. North,
Lucknow Road, Delhi
2. Director of Education, Old Secretariat,
Delhi.
3. Deputy Director of Education,
District North, Lucknow Road,
Delhi-54
4. Principal Govt. Boys Sr. Sec. School No.1,
Shaktinagar, Delhi-7

Respondents

(By Advocate Shri George Paracken)

ORDER

Hon'ble Mr. S.K. Malhotra, Member(A)

The applicant in this OA has prayed that the impugned order dated 15.1.2004 (Annexure-A) passed by the respondents rejecting his request for fixation of pay in the senior scale at Rs.6,900/- w.e.f. 10.3.1996 may be stayed and

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an earlier order dated 20.11.99 (Annexure-E) whereby his pay was fixed at Rs.6900/- may be restored, with all consequential benefits.

2. The facts of the case, in brief, are that the applicant was working as TGT(Science) in the pay scale of Rs.1400-2600/-. Based on the recommendations of the 5th Central Pay Commission, he was placed in the corresponding revised pay scale of Rs.5500-9000/- w.e.f. 1.1.1996. His basic pay which was Rs.1900/- in the pre-revised scale of Rs.1400-2600/-, was fixed at Rs.6,025/- in the revised pay scale of Rs.5500-9000/-. After completion of 12 years of service, the applicant was allowed senior pay scale of Rs.1640-2900/- w.e.f. 10.3.1996. The corresponding revised pay scale w.e.f. 1.1.1996 is Rs.6500-10,500/-. The Govt. of India (Ministry of Finance) issued an O.M. dated 26.3.98 which provided that the pay of Government servants, who opt to switch over to revised pay scale from the date of their next increment falling after 1.1.1996 but not later than 31.12.1996, their pay shall be fixed in accordance with Rule 7 of the CCS (Revised Pay) Rules, 1997. By a subsequent O.M. dated 30.7.1999, it was decided that the Government servants who have already exercised their option once could exercise their option again to switch over to the revised scale of pay from the date of their next increment falling after 1.1.96 but not later than 31.12.1997. In such cases also, the revised basic pay was to be fixed in accordance with Rule 7 of the CCS(Revised Pay) Rules, 1997. The applicant exercised his right of reoption, indicating 10.3.1996 as the switch over date, being his next date of increment. His pay as on 10.3.96 was Rs.2000/- in the pay scale of Rs.1640-2900/- and as such as

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per changed option, his pay was required to be fixed at Rs.6900/- on 10.3.1996 in the revised pay scale of Rs.6500-10,500/-.

3. The respondents accepted the claim of the applicant and fixed his pay at Rs.6900/- w.e.f. 10.3.96 vide order dated 20.11.1999. but he was not paid arrears despite several representations. On the other hand, the department subsequently issued an order dated 17.5.2001 (Annexure-H) reducing his pay from Rs.6900/- to Rs.6500/-. The applicant approached the department for restoring the earlier order dated 20.11.1999. He also approached the Tribunal by filing OA No.3137/2001 based on which he was given a personal hearing. As the pay of the applicant was reduced without giving him a show cause notice, the Tribunal vide its order in OA No.1233/2002 quashed the impugned order and ordered the respondents to issue a show notice and thereafter pass a speaking order. The department issued a show cause notice and now they have issued the O.M. dated 15.1.2004(Annexure-A) rejecting the request of the applicant to restore his pay to Rs.6900/- w.e.f. 10.3.96.

4. We have heard Shri Tejpal Singh Mann, applicant in person and Shri George Paracken, learned counsel for the respondents and have also perused the pleading and other material on record.

5. The main point raised by the applicant was that his pay was fixed earlier at Rs.6025/- in the pay scale of Rs.5500-9000/-. At that time there was a provision that when any employee opts a date later than 1.1.96, his pay was required to be fixed as per Rule 9 of the CCS(Revised Pay) Rules,1997. As per that rule, no benefit of bunching was admissible at that time. Bunching means that fixation of pay shall ensure that every employee gets atleast one increment in the revised pay

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scale for every three earned increments in the existing scale of pay. Later on, two O.Ms dated 26.3.1998 and 30.7.1999 were issued by Govt. Para 2 of the OM dated 30.7.1999 reads as under:

“On further consideration and in exercise of the power available under Rule 13 of the Central Civil Services (Revised Pay) Rules, 1997, the President is pleased to decide that the pay of Government servants who opt to switch over to the revised scale of pay from the date of their increment falling on or after 1.1.96 but not later than 31.12.97 in respect of the post held by them on 1.1.96, shall also be fixed in accordance with the provisions of Rule 7 of the Central Civil Services (Revised Pay) Rules, 1997.”

6. The applicant changed his option for the purpose of pay fixation from 1.1.96 to 10.3.96. He was drawing a basic pay of Rs.2000/- on 10.3.96 in the pay scale of Rs.1640-2900/-. His pay was rightly fixed at Rs.6900/- as per ready reckoner at page 21 filed with the rejoinder, giving him the benefit of bunching as per Rule 7 of the CCS (Revised Pay) Rules, 1997, as provided for in the OM dated 30.7.99. His pay could not, therefore, be reduced to Rs.6500/- by the respondents.

7. On the other hand, the respondents have taken the stand that if a Govt. servant continues to draw his pay in the existing scale and is brought over to the revised scale from a date later than the 1.1.96, his pay from the later date in the revised scale is required to be fixed under FRs and under FRs, the benefit of bunching is not allowed which is available only in the case of fixation of pay under Rule 7 of the CCS (Revised Pay) Rules, 1997. His pay has, therefore, been rightly fixed at Rs.6500/- w.e.f. 10.3.96.

8. It is observed that the provision in both the O.M.s provide that if an employee opts to switch over to the revised scale of pay from the date of his increment falling on or after 1.1.1996 but not later than 31.12.1997, in respect of




post held by him on 1.1.1996, his pay shall be fixed in accordance with the provisions of Rule 7 of the CCS (Revised) Pay Rules, 1997. The case of the applicant falls within the purview of this provision in the Rule. On 1.1.1996, he was a TGT in the pay scale of Rs.1400-2600 and was drawing a basic pay of Rs.1900/- in that scale. After introduction of the revised pay scale of Rs.5500-9000 w.e.f. 1.1.1996, as a result of implementation of the 5th Central Pay Commission recommendations, the corresponding pay in the revised scale works out to Rs.5762/- but after giving him the benefit of bunching of 3 increments, his pay was fixed at Rs.6025/- p.m. Later he opted for fixation of pay from the date of his next increment as on 10.3.1996. It may be stated that according to the provision made in para 2 of the O.M. dated 30.7.1999 reproduced in para 5 above, the revision in the pay scale from the date of increment falling after 1.1.1996, is to be made in respect of the post held by the applicant on 1.1.1996. In other words, he cannot take the benefit of the post and the scale of the post held by him later than 1.1.1996. On 1.1.1996, he was holding the post of TGT in the scale of Rs.1400-2600 and not the senior scale of Rs.1640-2900 which scale was granted to him only on 10.3.1996. Accordingly, he was entitled to an increment in the scale of Rs.1400-2600 and his pay stood at Rs.1950/- on 10.3.1996 in the pre-revised scale of Rs.1400-2600 (Revised Rs.5500-9000). The corresponding pay in revised scale works out to Rs.5911/- p.m. according to the Model Table 23 for fixation of pay. However, his pay was notionally fixed at Rs.6200/- after giving him the benefit of bunching of four increments. On this date, he was also granted the senior scale of Rs.6500-10,500. Now his pay was required to be fixed in the senior


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scale. After giving him the benefit of one increment of Rs.175/- on Rs.6200/- under FR 22(1) (a) (i), his pay works out to Rs.6375/-. Since there is no stage of Rs.6375/- in the pay scale of Rs.6500-10,500/-, he was granted the minimum of the pay scale and his pay was rightly fixed at Rs.6500/- on 10.3.96. It would thus be seen that the applicant was required to be given the benefit of bunching and additional increment in the scale of pay held by him on 1.1.1996 and not in the scale held by him on a subsequent date. However, the Department had earlier inadvertently fixed his pay at Rs.6900/- by giving him the benefit in the senior scale of Rs.6500-10,500, which was not in accordance with the instructions contained in the two O.Ms referred to above. When this mistake came to their notice, they rectified the same and refixed his pay at Rs .6500/- instead of Rs.6900/-. The final decision in this regard has now been taken by the respondents after giving due opportunity to the applicant by issuing a show cause notice and the position has been explained in detail in the order dated 15.1.2004 (Annexure-A). In our opinion, his pay has rightly been fixed at Rs.6500/- w.e.f 10.3.1996, in terms of the relevant rules and instructions on the subject.

9. As a result of the above discussions, we do not find any merit in the OA and the same is dismissed, without any order as to costs.


(S.K.Malhotra)
Member (A)


(V.S.Aggarwal)
Chairman

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