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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 56 of 1985
T.A. No.

DATE OF DECISION 14th April 1986

Shri Ram Murti Sharma **Petitioner**

Shri Swatantar Kumar **Advocate for the Petitioner(s)**

Versus

Union of India **Respondent**

Shri P.H. Ramachandani **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. S.P.Mukerji, Member

The Hon'ble Mr. H.P.Bagchi, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?

JUDGMENT:

The petitioner has come up under Section 19 of the Administrative Tribunals Act praying that a special pay of Rs.70/- attached to his parent post should be taken into account for the purposes of computation of all allowances so as to fix his pay at Rs.825/- instead of Rs.775/- with effect from 1.1.1978.

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He has also prayed that all other benefits including arrears and relief of higher pension and gratuity should also be given to him. The material facts of the case which are not disputed are summarised below:

2. The petitioner originally belonged to the Punjab Police (Wireless) and was confirmed as Assistant Sub-Inspector in the scale of Rs.80-220 on 1.8.1966. In June, 1966, his services were placed at the disposal of the Government of India in the subsidiary Intelligence Bureau and while on deputation he was allowed to draw the same scale of pay as in Punjab with a special pay and deputation allowance. His DA and other allowances were fixed after including special pay and deputation allowance at Punjab Government rates. With effect from 21st September 1968, his services were placed at the disposal of the Cabinet Secretariat (PAW) as Assistant Field Officer (AFO). On 1.1.1970, he was promoted as Deputy Field Officer (Technical) in the scale of Rs.250-450 which was also the old pay scale of Assistant Sub Inspector in his parent Department in Punjab with a special pay of Rs.70/- per month. In the deputation post, the petitioner was getting the basic pay in the scale of Rs.250-450 with a special pay of Rs.50/- per month and deputation allowance of Rs.75/- which was increased to Rs.100/-. In his parent cadre of Punjab, he was given proforma promotion to the rank of Sub-Inspector in the scale of Rs.250-450 with a special pay of Rs.70/- and his pay and allowances had to be fixed in the revised pay-scale. The Punjab Government issued some orders

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notably the order dated 29.2.1980 (Annexure III to the petition) indicating how the pay in the revised pay scale should be fixed. In this order they specifically mentioned that Dearness Pay, Dearness Allowance, Interim Relief, Additional D.A., etc., will have to be fixed on the basis of existing pay plus existing special pay and the pay in the revised pay scale should be fixed after summing up of the emoluments thus determined in the old pay scale. They had also issued Fitament Table indicating against each level of basic pay plus special pay the various allowances. This Fitament Table is appended to the counter affidavit. The grievance of the petitioner is that while calculating his total emoluments on the basis of which his pay in the revised pay scale of Rs.620-1200 is to be determined, the respondents in consultation with the Government of Punjab did not include the special pay of Rs.70/- as a result of which his pay was fixed at Rs.775/- on 1.1.78 as against Rs.825/- to which he is entitled. In his rejoinder he has mentioned specific cases of Police Officers on deputation from Punjab, Haryana, Himachal Pradesh and Rajasthan where the revised pay had been determined after merging the special pay with the basic pay in the scale. The ^{most} pertinent examples cited by him is that of Shri Mani Singh whose case is a carbon copy of the case of the petitioner inasmuch as both of them belonged to the Punjab Police (Wireless), both of them were drawing basic pay of Rs. 345/- in the old scale of Sub-Inspector in Punjab but whereas

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in case of Shri Mani Singh the special pay of Rs.50/- had been added to the basic pay of Rs.345/- in calculating various allowances in the Fitment Table, in the case of the petitioner, only the basic pay of Rs.345/- without any special pay had been recognised in reckoning the various allowances from the Fitment Table.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents very closely. We are aware of the fact that the petitioner's basic pay has to be fixed in the revised pay scale of Sub-Inspector (Wireless) in consultation with the Government of Punjab. The learned counsel for the respondents, however, argued that the Government of Punjab should have been made a necessary party in this case. We are not able to appreciate this viewpoint in the context of the admitted fact that the petitioner has been absorbed permanently in the Cabinet Secretariat with effect from 1983. We, therefore, do not want to delay this matter by getting bogged down on the question of impleading the State Government at this stage. However, as the following finding will show, we would very much like the respondents to fix the pay of the petitioner in consultation with the Government of Punjab. We think that this will adequately take care of the objection raised by the learned counsel for the respondents.

4. The documents extant in the file are crystal clear insofar as the modality of fixing the basic pay of the petitioner in the revised scale of

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Sub-Inspector in Punjab is concerned. It is admitted that the old scale of Sub-Inspector (Wireless) in Punjab is Rs.250-450 plus Special Pay of Rs.70/-. The revised scale from 1.1.78 is Rs.620-1200 plus Special Pay of Rs.70/-. It is also admitted by both the parties that in accordance with the Government of Punjab's letter No.9/53/79-IFR, dated 29th February, 1980 a copy of which is annexed as Annexure-III to the petition, the petitioner's case falls within the category (iii) mentioned in para 1 of that letter as follows:

"(iii) Cases in which Special Pay was admissible in the existing scale and has been also sanctioned in the revised scale as a separate component."

Vide sub-para (iii) of para 2 of the same letter, it is also admitted that the revised scale's pay of the petitioner who falls in that category would be determined as under:-

"(iii) In respect of the cases falling within category (iii) the pay of the revised scale to be determined with reference to the basic pay plus the element on account of D.P., D.A., IR/AR and ADA admissible on 1st January, 1978 on existing pay plus special pay. The employees be allowed special pay in addition to the pay as fixed in the revised scales of pay under the rules." (emphasis added).

5. The sole grievance of the petitioner is that in calculating the allowances etc. the special pay has not been taken into account. We feel that in accordance with sub-para (iii) of para 2 of the aforesaid letter, the petitioner has a very good and sound case. This is also fully substantiated by the fact that in case of another officer from Punjab Police, namely, Shri Mani Singh who was also drawing on the crucial date 1.1.1978 the

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the same basic pay in the unrevised scale of Rs.345/- per month with a special pay of Rs.50/-, the various components of the emoluments had been fixed in consultation with the Punjab Government by the respondents in the following manner:


Basic Pay	= Rs.345/-	
Special Pay	= Rs. 50/-	
Total of Basic and Spl.pay	= Rs.395/-	
D.A.	= Rs.146/-	(As per the fitament tabular statement appended at Annexure-A-I with the counter -Fitament Table)
I.R.	= Rs.50/-	(do-)
A.D.A.	= Rs.136.50	} Rs.224.40
D.A.	= Rs. 87.90	
Total	= <u>Rs.815.40</u>	

6. In case of the applicant, however, whose case is on all fours with that of Shri Mani Singh, the aforesaid Fitament Statement has been utilised against the basic pay of Rs.345/- without taking into account the special pay. This to our mind is obviously not only discriminatory but in clear violation of the Punjab Government's own order of 29th February, 1980 quoted above.

7. In the circumstances of the case, we are fully convinced that the revised pay of the petitioner has not been correctly fixed and should be revised on the lines of the fixation of pay of Shri Mani Singh as discussed above. We, therefore, allow the petition with the direction that the respondent should re-fix the pay and allowances

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of the petitioner in consultation with the Government of Punjab on the lines on which the pay of Shri Mani Singh was fixed in terms of the order of 29th February 1980 and category (iii) thereof. The pay and allowances should be finalised within the next three months. The parties will bear their own costs.


(H.P. BAGCHI)
JUDICIAL MEMBER

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(S.P. MUKERJI)
MEMBER