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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CA No.2572 of 1992

New Delhi, the 4 day of November, 1993.

Hon'ble Mr B.N.Dhoundiyal, Member(A).

Shri I.C.Sharma,
s/o late Shri R.C.Sharma,
C/O Shri S.C.Luthra, Advocate,
E-329, East of Kailash,
New Delhi-110065.

... .. Applicant

By Shri S.C.Luthra, Advocate.

vs.

1.Union of India; through
Secretary, Ministry of Defence,
South Block, New Delhi-110011.

2.Controller General of Defence Accounts,
West Block 5, R.K.Puram, New Delhi-110066.

... .. Respondents

By Shri P.H.Ramchandani, Advocate.

ORDER

B.N.Dhoundiyal, Member(A)

This O.A. has been filed by Shri I.C.Sharma against the impugned order dated 25.3.1992, whereby the Controller General of Defence Accounts, New Delhi has rejected his request for being allowed to file a fresh option for pay fixation. The applicant was promoted as Senior Auditor w.e.f.1.4.1987 vide order dated 2.1.1989. Though the pay for the post of Senior Grade Auditor and the post of Selection Grade Auditor was the same but the Selection grade auditor on promotion as Senior Auditor was entitled to the benefits of two increments. The applicant was required to give option for pay fixation within one month of the order and on 27.1.1989 he exercised his option from the ^{actual} date of promotion, that is, 1.4.1987. One Shri Sat Parkash Sharma, selection grade Auditor, who

was junior to the applicant started getting more pay on his promotion on 1.12.1978 vide order dated 30.8.1989. The ^{applicant's} pay was fixed at Rs.500/- w.e.f. 1.12.1978 to bring ^{it} at par with that of his junior Shri Sat Parkash Sharma. The next increment was to fall due on completion of 12 months qualifying service w.e.f. 1.12.1978. After introduction of revised pay-scales on the recommendations of 4th Pay Commission, the applicant had exercised his option w.e.f. 1.4.1987, however, the Govt. order dated 30.8.1989 was issued much later. It was directed in note 1 to this O.M. that the date of exercising option and next date of increment would be read as 1.12.1986 and 1.12.1987. These amendments were necessary because Shri Sat Parkash Sharma had opted his pay fixation w.e.f. 1.12.1986. However, increments continued to be granted to the applicant from April, 1987 onwards in the month of April, whereas his junior Shri Sat Parkash Sharma has been granted these increments from 1st of January each year. Thus, on 1.12.1992, the pay of Shri Sat Parkash would be Rs.2360/- as against Rs.2250/- of the applicant. At the time of arguments, the learned counsel for the applicant confined himself to the relief claimed in para 8.2 that is to direct the respondents to accept the fresh option of the applicant dated 2.10.1990 under which the applicant opted his pay under F.R.22-C on his promotion as senior auditor w.e.f. 1.12.1987 instead of 1.4.1987.

2. A counter has been filed in which the averments are these. The applicant had submitted an option on 22.10.1990 in supersession of his earlier option dated 21.7.1989, which is not

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permissible under Govt. rules as option once exercised is treated final. The applicant has already been given relief by stepping up his pay equal to his junior Shri Sat Parkash Sharma. However, in para 4.9 of the counter, it is mentioned that the date of his annual increment has also been amended from 1.4.87 to 1.4.88 to 31.12.86 to 31.12.87, respectively.

3. I have gone through the records and heard the learned counsel for the parties. In para 4 of the O.M. dated 9.11.1987 (Annexure R-1) issued by the Ministry of Personnel, it is clearly stated that option once exercised shall be final. Hence the relief claimed by the applicant that his second option submitted on 22.10.1990 be accepted, would be against the existing instructions on the subject. However, the parties agreed that if the provisions of the O.M. dated 30.8.1989 (Annexure A-6) are strictly followed, the required relief would be automatically available to the applicant.

4. In view of the above, the application is disposed of with the direction to the respondents to strictly follow their O.M. dated 30.8.1989 and revise the date of increment in case of the applicant as directed in note 1 thereto. Necessary orders in this respect shall be passed within three months of the date of communication of this judgment.

5. There shall be no order as to costs.

November 4, 1993.
(SDS)

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Member (A).