

(47)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1187 of 1993

12th day of November 1993

Shri B.K. Singh, Member (A)

Hon'ble Shri B.K. Singh, Member (A)

Bhisham Kumar,
House No. B-4/5880,
Street No. 5,
Dev Nagar, Karol Bagh,
New Delhi.

.....

Applicant

By Advocate Shri V. S. R. Krishna
Versus

Delhi Administration, through -

1. The Chief Secretary,
Delhi Administration,
5, Shyam Nath Marg,
Delhi.
2. The Commissioner,
Food Supplies & Consumer Affairs,
Government of National Capital
Territory of Delhi,
Delhi Administration,
2, Under Hill Road,
Delhi.

.....

Respondents

By Advocate Shri D.N. Goburdhan

ORDER

Hon'ble Shri B.K. Singh, Member (A)

This O.A. No. 1187/93 has been filed for grant of subsistence allowance to the applicant on the basis of the revised pay as per the recommendations of the 4th Pay Commission. We heard the learned counsels, Shri V. S. R. Krishna for the applicant and Shri D. B. Goburdhan for the respondents and perused the record of the case. The learned counsel for the applicant wants revision of subsistence allowance on revised pay in keeping with the 4th Pay Commission Recommendations and arrears from 1.1.1986. The applicant currently is drawing subsistence allowance on the basis of the pay fixation as per 3rd

B

Contd...2/-

Pay Commission Recommendations. He claimed^{it} as a matter of right and stated that it is not discretionary on the part of the respondents and as such the respondents are duty-bound to pay arrears and also revised the subsistence allowance on the revised pay as per the recommendations of the 4th Pay Commission. He further argued that the case of the applicant is squarely covered by the judgment of the Hon'ble Tribunal dated 2.3.90 in the matter of Ramesh Kumar Vs. Delhi Administration. The judgment was delivered on 2.3.90 by the Hon'ble Vice Chairman, Mr. P.K. Kartha and Hon'ble Member, Mr. D.K. Chakravarty. This judgment was also based on a judgment delivered by Justice K. Nath, V.C. and Hon'ble Mr. P.C. Jain, Member (A) in the matter of A.C. Midha Vs. Union of India and Ors. in OA No. 606/88. In these two cases the applications were allowed. The learned counsel for the respondents argued that although the Chief Secretary, Delhi Administration, Mr. K.K. Mathur vide his order dated 27.3.80 set aside the order of dismissal passed by the disciplinary authority, i.e. the Commissioner, Food, Supplies, and Consumer Affairs, and passed an order to the effect that the "period from the said date of his dismissal will be treated as a period ^{under} of suspension for which he would be entitled to

B

Contd....3/-

get normal subsistence allowance". In the light of this also the learned counsel for the applicant wanted the word "normal" to be interpreted in favour of the applicant. The Hon'ble Supreme Court has *Petitioner for special leave to appeal (civil) No 8884/90* admitted ~~an SLP~~ filed by the respondents and they have granted special leave and also stayed the operation of the order of the Tribunal passed in O.A. 1087/89, Union of India & Ors. Vs. Ramesh Kumar. A perusal of the SLP will indicate that the grant of subsistence allowance in para 2 has also been included as one of the major issues for adjudication. In view of this it will not be desirable to pass any orders regarding refixation of pay on the basis of recommendations of the 4th Pay Commission and consequential increase in subsistence allowance and payment of arrears from 1.1.86 since the applicant is similarly placed as Ramesh Kumar. Accordingly the applicant's prayer for the aforesaid relief at this stage is rejected leaving the applicant the option, if so advised, to press his prayer after hearing on the issues involved in the case of Ramesh Kumar, in which subsistence allowance is also an issue, concludes. *No costs.*

B.K. Singh
(B.K. Singh)
Member (A)