

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

Allahabad this the 31st day of March 1995.

Transfer Application No. 1357 of 1987 (T)

In

Writ Petition No. 6573 of 1984.

Hon'ble Mr. Justice B.C. Saksena, Vice-Chairman
Hon'ble Mr. S. Dayal, Administrative Member.

- i. Shri Azizullah Chauhan, S/o Late Shri M.A. Chauhan, R/o 221, Nurullah Road, Allahabad.
- ii. Shri Kushal Bihari Lal Verma, S/o Late Shri K.B.L. Verma, R/o 98, Nawal Rai Talab, New Bairhana, Allahabad.
- iii. Shri Krishna Mohan Srivastava, S/o Late Shri A.P. Srivastava, R/o 212, Sharara Bagh, Allahabad.

... Applicants.

C/A Shri W.H. Khan.

Versus

- i. Union of India.
- ii. Comptroller & Auditor General, of India, New Delhi
- iii. Accountant General, Uttar Pradesh, Allahabad.

... Respondents.

C/R Shri A. Mohiley.

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O R D E R

Hon'ble Mr. S. Dayal, Member-A

This is a writ petition no. 6573/84 filed in the High Court which was later transferred to the Tribunal and was registered in the Tribunal as TA 1357/87. The writ petition was filed by three petitioners jointly to get the impugned order dated 22.02.1984 quashed, ~~to~~ get directions issued to the respondents to dispose of the petition and to be awarded the cost of the petition.

2. The facts as given in the petition show that the petitioners who were Lower Division Clerks were appointed as auditors on 04.12.72, 04.12.72 and 18.12.72 respectively. They were entitled to get advanced incentive increments if they passed departmental examination within one year of promotion and they had in any case to pass this examination before confirmation. The petitioners appeared in examinations held in May 1973 but did not pass and others who passed were given four advanced incentive increments. The petitioners appeared again in November 1973 examination and were declared successful. They claim to have become entitled to four advanced increments. They made representations in January and February 1975 respectively.

3. The petitioners have claimed that four advanced incentive were admissible to them because

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the advanced incentive increments could not be given to them only because no orders of higher authorities were received by the Accountant General, Allahabad. They were informed on 21.12.77 that the Government of India had not agreed to grant them the advanced incentive increments (Paragraph 12 of the writ petition). The petitioners made another representation in March, 1978 and followed it up by representation in August, 1978 in which they stated that though the advanced increments were stopped from 1.1.73 when new pay scale came into operation but Government vide their order dated 17.05.74 gave certain relaxations and permitted opting for the new pay scale upto 31.12.74 and fresh options could be given subsequently by an order dated 11.06.75. the Government of India permitted fresh options to those govt. servant who had been granted higher start/advance/incentive increments from the dates on which they were granted such increments. They also stated that their juniors had been granted four advanced incentive increments in May, 1993, after passing the Departmental Confirmatory Examination. The petitioners claim that they should get the same benefit. They have claimed that their representations made in March & August, 1978 were referred to the Government of India; since nothing was heard from the Govt. of India, the petitioners sent a representation to the authorities on 19.11.81 that no advanced increments were admissible after revision of pay scales and a

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new system of incentive—a special pay of Rs. 15 was introduced for auditors who passed the examination after 01.01.73. They have also claimed that fixation of date of 01.01.73 was arbitrary.

4. This case came up for hearing on 23.02.95. It was found from the order sheet that the counsel for applicant no. 1 (Only applicant no. 1 chose to engage a new counsel after the death of the first counsel) did not remain present on 30.09.94, 25.11.94 and 01.02.95 in the past and was absent on 23.02.95 also. None was present for the respondents also. Since the case was very old, it was considered inexpedient to prolong it any further and it was reserved for orders. The case is thus being decided on merits based on the written pleadings contained in the case papers.

5. Since the writ petition was admitted by the High Court on 16.08.85, the question of limitation in this case is treated as settled. Since the letter dated 22.02.84 (Annexure Q of the petition) has been treated to be an order from which the applicants are aggrieved by the High Court as this writ petition was transferred by the High Court to this Tribunal and has been proceeded with by the Tribunal, the matter of jurisdiction under 20 (2) (a) of the Administrative Tribunal Act, 1985, is also taken as settled.

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6. The reply of the respondents shows that the Revised Pay Scale were introduced by the Govt. of India in November, 1973, and advanced increments were withdrawn from 01.01.73. A new scheme of qualification pay of Rs. 15 per month was introduced with effect from 01.06.81 by the order of Govt. of India dated 25.09.81. (Para III of the reply). The respondents have stated that they had treated the increments granted to those who passed the examinations in May, 1973, as over payments and they were intimated to the comptroller and Auditor General's Office on 13.01.79 and 24.04.79.

7. Thus the position which emerges is that the incentive of four advanced increments was never sanctioned to the applicants/petitioners. Such an incentive was withdrawn by application of Revised Pay Scales by orders passed in November, 1973, giving them retrospective effect from 1st January, 1973. It is true that the applicants could file a revised option under Government of India Memorandum dated 17.05.74 but they were not entitled to take advantage of the subsequent Memorandum dated 11.06.75 because the incentive increments were never granted to them. The benefit of this memorandum could accrue to only those auditors who passed the examinations in May, 1973.

8. The Government has accepted the recommenda-

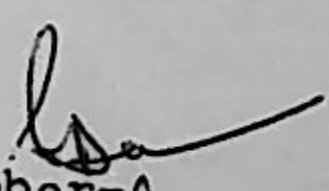
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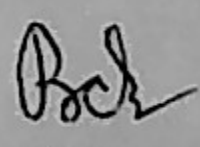
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tions of the Pay Commission for doing away with the grant of advanced increments ^{at the time of} ~~the introduction of~~ new pay scales with effect from 01.01.73 in the ~~larger~~ interest of the employees although the orders to that effect were passed in November, 1973, and this Tribunal Considers it inappropriate to interfere with this order after a period of more than two decades especially when another Pay Commission's report has been implemented. We do not consider that application of the Revised Pay Scales with effect from 01.01.73 was arbitrary any more than it would be if it were applied from any other date. The applicants would not in any case have been entitled to advanced increments even if the system of advanced increments was abolished prospectively in November because the applicants had only taken ^{and not passed the same} the examination till then. The arguments advanced by them that the benefit had already accrued in November, 1973, is not valid.

9. The application, therefore, has no merit and ^{is} dismissed.

10. There shall be no order as to costs.


Member-A


Vice-Chairman

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