

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

O.A. No. 364/93

Allahabad this the 27th day of Nov., 97

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. D.S. BAWEJA, MEMBER(A)

Roop Lal Sharma, aged about 51 years, son of late M.L. Sharma, resident of 36, Kailash Nagar, Chakeri, Kanpur employed as UDC, P.A. No. 18859, No.1, Trade Examiner Board (TEB), Air Force Station Chakeri, Kanpur.

Applicant.

By Advocate Shri N.K. Nair.

versus

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. Air Officer-in-Charge Personnel, Air Head Quarters, Vayu Bhawan, New Delhi.
3. Commanding Officer, No. 1 TEB, Air Force Chakeri, Kanpur.
4. Shri Lal Ji Gupta, U.D.C, P.A. No. 18491, No. 1TEB, Air Force, Chakeri, Kanpur.

Respondents.

By Advocate Shri N.B. Singh.

O R D E R (RESERVED)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsel for the parties. The applicant, through this O.A. challenges office order dated 27.7.92 ordering for ceassation of special pay of Rs70/ per month with effect from 1.7.92. The applicant's case is that he has been getting this special pay for the period of about 5 years and 9 months with effect from 6.9.86. The applicant has also challenged the order dated 7.10.92, by which his representation had been rejected.

2. Initially, the special pay of Rs 35/- was provided to be given to the UDCs of different units of Indian Air

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Force who were employed on discernible and complex nature of work. The said amount was raised to Rs 70/- on implementation of the 4th Pay Commission Report.

3. The impugned order clearly states that the applicant has ceased to draw special pay of Rs 70/- with effect from 1.7.92 as he is no more employed on the discernible and complex nature of work/job.

4. The respondents, in their counter affidavit, have stated that special pay cannot be claimed as a matter of right, nor it is part of the terms and conditions of employment. It has further been indicated that on the transfer of one Shri N.M. Dua who was getting special pay because of discernable and complex nature of work performed by him, the applicant who succeeded Shri N.M. Dua on the said post was also given special pay. The respondents' case is that it is transferrable post and a review is made after every three years. Consequently, when the applicant was ordered to be transferred and in his place respondent No. 4 had been posted, the impugned order ceasing payment of special pay to the applicant was passed and the respondent No. 4 is being given special pay because of discernible and complex nature of the work of the post.

5. The respondents have further indicated that as part of the duty whosoever works in developing Hindi will be considered for this special pay. ~~At present respondent No. 4~~ *Bel* ~~is dealing with special pay.~~ Since the respondent No. 4 is working in Hindi cell for developing Hindi, he is being given the benefit of special pay since July, 92. The respondents have further taken the plea that the special pay is attached to a post and not to any individual. The holder of any given post of discernible and complex nature of work is given the special pay.

5. The applicant has filed Rejoinder affidavit. Even after going through the Rejoinder Affidavit we do not find any averment to dislodge the pleadings of the respondents in

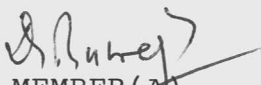
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their counter affidavit. The applicant has admitted that he has been transferred from the post in question on which he was getting special pay and the respondent No. 4 has joined in his place and is working since 1992. The order of transfer is not in question in this O.A.

6. In the Rejoinder Affidavit, the applicant has disputed that for performing duties involving development of Hindi, other incentives such as cash awards are specified but special pay is not granted on the basis of work involving the development of Hindi. 10% of the posts of U.D.C. ARE PIN POINTED AS INVOLVING DISCERNIBLE AND COMPLEX DUTIES. The applicant has not alleged any malafides against any one. No legal right of the applicant has been infringed. Special pay, as it is defined in the fundamental rules, is given for arduous nature of duties. If the post which the applicant has ~~not~~ held after his transfer, has not been pin pointed as the post involving discernible and complex nature of work, the applicant cannot claim as a matter of legal right grant of special pay.

7. In view of the above, we do not find any merit in the O.A. It is accordingly dismissed. Parties shall bear their own costs.


MEMBER (A)


VICE CHAIRMAN

Allahabad Dated: 27.11.97.

Shakeel