

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Allahabad this the 17th Nov' 1994.

Original Application no. 1669 of 1994.

Hon'ble Mr. K. Muthukumar, A.M.

Hon'ble Mr. J.S. Dhaliwal, J.M.

1. Shri Parmanand Prasad Srivastava,

S/o Late Mathura Prasad Srivastava,

R/o 232/I, Tilak Nagar, Allahabad,

U.D.C., 508, Army Base Workshop,

The Fort, Allahabad-5.

2. Mathura Prasad, S/o Late Shri Hazari Lal,

R/o 273, Madhuapur, Allahabad.

U.D.C., 508, Army Base Workshop,

The Fort, Allahabad.

..... Applicants.

By Advocate Sri J.N. Tewari .

Versus

1. Union of India, Ministry of Defence,

Through its Secretary, Army Head Quarters ,

New Delhi.

2. Officer Incharge,

E.M.E. Records, Secunderabad.

3. Commandant & M.D.

508, Army Base Workshop, The Fort,

Allahabad-5.

..... 2

4. Madan Singh Rawat, UDC

S/o Shri Vijay Singh Rawat,
R/o LIG-337, Govindpur Colony,
Allahabad.

5. Shri R.N. Mishra, UDC,

S/o Shri Shyam Bihari Mishra,
P.O. Aara Kalan, Tehsil Mandi,
District: Allahabad.

6. Shri M.P. Khare, UDC

S/o Shri Kali Chand Khare, 385, Muthiganj,
Raja Bara Ka Hata, Allahabad.

..... Respondents.

By Advocate Sri.....

(O R D E R)

By Hon'ble Mr. K. Muthukumar, A.M.

1. The applicants are employed as U.D.Cs in 508 Army Base Workshop, Allahabad. They are aggrieved because of the respondents' not allowing special pay of Rs 70/- per months in a highly arbitrary and discriminatory manner, particularly when the orders of the Governments of India dated 29.6.1979 (Annexure-2) stipulated that non-secretariate administrative offices where the posts of Assistant did not exist, the Upper Division Clerk performing the work of more complex and important nature could be granted a special pay of Rs 35/- per month which was later enhanced to Rs 70/- per month. The applicants allege that although the in terms of the above orders of the Ministry of Defence and Army Head Quarters clarification there on, the respondents have arbitrarily granted special pay to respondents

nos. 4, 5 and 6 who are junior to the applicants. Aggrieved by this they have filed this application in this Tribunal with a prayer for quashing the impugned order dt. 10.9.1994, by which the respondents have granted special pay to the respondent no. 4 and also prayed for a direction to the respondents to allow the special pay to the applicants.

2. We have heard the arguments of the learned counsel for the applicants and perused the record.

3. In terms of the Ministry of Defence order dt. 29th June 1979 and the Army Head Quarters clarification, the Commandants of the Units were asked to identify one or two posts of the U.D.C. in each unit/establishment involving the interpretation of rules regulations and only those U.D.Cs will be recommended by the Commandants of the units. In pursuance of this the respondent no. 3 had identified the three posts and granted special pay after acceding the necessary certificate to the effect that the individual concerned has been assigned duties of discernably complex nature. Grant of special pay was recommended in consideration of the fact that certain posts identified for the purposes, have been considered to be involving duties and responsibilities and of complex nature as compared to than normally expected of U.D.C's.

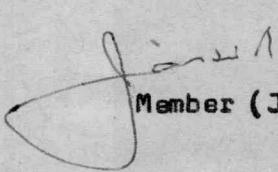
4. The scheme envisages identification of certain specified posts, which by nature of the complexity of the duties involved in such posts qualify for grant of special pay. The scheme is essentially post-based,

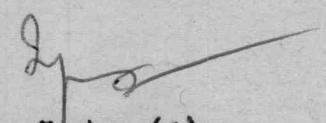
and not individual-based. It can not be construed that by grant of special pay to the respondents nos. 4, 5 and 6, the respondent no. 3 has conferred the benefit on them as individuals. The grant of special pay to them is for being holders of the identified posts at the relevant point of time. It is always open to the Government to change the personnel from time to time, from this identified posts in the administrative exigencies. Besides it is not unusual for the Government to attach special pay to certain posts because of the arduous nature of duties attached with such posts. The applicants have chosen to agitate that certain posts identified by the respondent no. 2, are not of a complex nature, while their posts are complex in nature and involve interpretation of rules etc. The contention of the applicants, whether that they are performing duties of complex nature and the respondents nos. 4, 5 and 6 are not discharging the duties of complex nature is tenable or not, cannot be gone into by this Tribunal. Truly, this is a function of the Administration which has to be exercised by the respondents nos. 2 and 3 and this Tribunal cannot persuade itself to sit in judgement over the such determination by the above respondents. The Tribunal cannot inflict on itself the burden of identifying the posts which have complex duties, meriting grant of special pay under the scheme and adjudicate on this matter and interfere with that is purely an administrative function, so long as it is not shown to have been exercised in an arbitrary

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and ~~biased~~ manner. From the averments made and the arguments advanced there is nothing to infer that the respondents no. 2 acted in a ~~biased~~ and arbitrary manner.

5. In the light of the above discussions, the application is misconceived and is devoid of any merit and is accordingly dismissed in limine. No order as to costs.


Member (J)


Member (A)

Allahabad: Dated: 17.11.94
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(ORDER)

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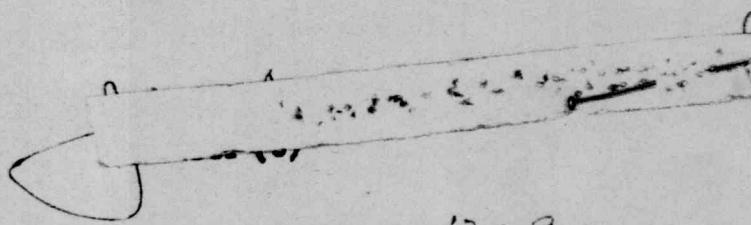
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4. The scheme envisages identification of certain specified posts, which by nature of the complexity of the duties involved in such posts, entitles the grant of special pay. The scheme is not limited to the said,

and not individual-based. It can not be construed that by grant of special pay to the respondents nos. 4, 5 and 6, the respondent no. 3 has conferred the benefit on them as individuals. The grant of special pay to them is for being holders of the identified posts at the relevant point of time. It is always open to the Government to change the personnel from time to time, from this identified posts in the administrative exigencies. Besides it is not unusual for the Government to attach special pay to certain posts because of the arduous nature of duties attached with such posts. The applicants have chosen to agitate that certain posts identified by the respondent no. 2, are not of a complex nature, while their posts are complex in nature and involve interpretation of rules etc. The contention of the applicants, whether that they are performing duties of complex nature and the respondents nos. 4, 5 and 6 are not discharging the duties of complex nature is tenable or not, cannot be gone into by this Tribunal. Truly, this is a function of the Administration which has to be exercised by the respondents nos. 2 and 3 and this Tribunal cannot persuade itself to sit in judgement over the such determination by the above respondents. The Tribunal cannot inflict on itself the burden of identifying the posts which have complex duties, meriting grant of special pay under the scheme and adjudicate on this matter and interfere with that is purely an administrative function, so long as it is not shown to have been exercised in an arbitrary

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