

15
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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 181 of 1987.

Date of decision : September 29, 1989.

Gouranga Mistry, son of Panchanan Mistry,
aged 43 years, Mobile Squad Inspector,
Transport & Workshop Organisation,
Dandakaranya Development Authority,
At & P.O. Ambaguda, District-Koraput,
Orissa.

Applicant.

Versus

1. Union of India, through the Secretary,
Ministry of Home Affairs, Department of
Home Affairs, Rehabilitation Wing, Jaisalmer
House, MansingRoad, New Delhi.

2. Chief Administrator,
Dandakaranya Development Authority,
At & P.O. Koraput, District-Koraput,
Orissa.

Respondents.

For the applicant M/s.B.Pal,S.C.Parjia,
O.N.Ghosh, Advocates.

For the respondents ... Mr.Ganeswar Rath,
Senior Standing Counsel (Central)

C O R A M :

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.

2. To be referred to the Reporters or not ? 16.

3. Whether His Lordship wishes to see the fair copy of the
judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) In this petition under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to Respondent No. 2 to fix his pay in the revised scale of pay of Rs. 1640-2900/- or at least in the scale of pay of Rs. 1400-2300/- and a further direction for quashing the orders dated 6.5.1987 and 28.4.1987, Annexures A6 and A8 respectively.

2. The material facts, stated in brief, are that the applicant was serving in the Dandakaranya Project and he claims to be appointed as Mobile Squad Inspector. Previously, he was appointed to the Ministerial post but on 24.6.1983, after facing the interview, he was appointed to the post of Mobile Squad Inspector on ad hoc basis and this was regularised by an office order dated 30.6.1984. Then the scale of pay was Rs. 380-560/-. After his adhoc appointment he was asked to appear at an examination and there he qualified. After his appointment as Mobile Squad Inspector, the report of the 4th Central Pay Commission was accepted and with effect from 1.1.1986 persons in service under the Central Government were allowed to draw pay in the revised scales prescribed thereunder. His case is that the 3rd Central Pay Commission in its report in 1973 accepted the post of Mobile Squad Inspector as a workshop post and as such he must be deemed to be a person working under workshop and as a technical person. But after the 4th Central Pay Commission's report, he was not given the scale of pay which is admissible to the workshop staff and his pay was fixed in the scale of Rs. 1320-2040/-. Subsequently he was declared surplus with effect from 1.6.1987 but allowed to continue to hold the post till his redeployment elsewhere or six months from the date of

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being declared surplus. After the fixation of his pay in the scale of pay of Rs.1320-2040/- he made representation on 30.3.1987 for allowing him to draw pay in the scale of pay of Rs.1640-2900/- but this representation was rejected by the order dated 6.5.1987 vide Annexure-A6. He has also averred that the duties of Mobile Squad Inspector are similar to those of Motor Vehicle Inspector under the State Government and since a Motor Vehicle Inspector is entitled to draw pay in the scale of Rs.1640-2900/-, he should also be allowed to draw pay in that scale. Even if that is not allowed, the least to which he is entitled is to the scale of pay of Rs.1400-2300/- as workshop staff under Part B of the First Schedule to the Revised Pay Rules, 1986. He has taken another ground in support of his claim that even in the clarification issued by the Government of India in the Ministry of Finance and Expenditure, it was nowhere stated that the workshop staff would not get the scales of pay stated in Part B of the First Schedule to the Revised Pay Rules, 1986. Making these allegations, the reliefs above-
said
sought have been prayed for.

3. The respondents in their counter have stated that the applicant was first appointed as a Nursing Assistant, subsequently as Lower Division Clerk and in October, 1983 as Mobile Squad Inspector on ad hoc basis as he lacked some of the essential qualifications for being appointed to that post. At that time the scale of pay for Mobile Squad Inspector was Rs.380-560/- and the Fourth Central Pay Commission recommended the scale of pay of Rs.1320-2040/- for persons drawing pay in the scale of Rs.380-560/- after the Third Central Pay Commission Report and as such, the pay of the applicant was fixed in that scale

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18
vii

namely Rs.1320-2040/-.. In paragraph 6 of their counter the respondents have given the scale-s~~e~~ of pay prior to the report of the Fourt Central Pay Commission and the corresponding scales of pay according to the Fourth Central Pay Commission report. In Item No.12 of the First Schedule of Part A to the 4th Central Pay Commission Report, it has stated that the scales of pay of Rs.380-530/-and Rs.380-560/-, were made one ~~and~~ the scale recommended was Rs.1320-2040/-.

4. After the filing of the counter, the applicant has filed a rejoinder in which he has reiterated that he belongs to the category of Industrial staff and his pay was arbitrarily ~~fixed~~ after the Third Central Pay Commission's report in the scale of pay of Rs.380-560/- as there was no corresponding scale in the report of the Third Central Pay Commission to the pre-revised scale of pay (prior to Third Central Pay Commission's report) of Rs.205-280/-. Therefore, right from that time he was aggrieved and the respondents had really no just cause for refusing him to pay at least in the scale of Rs.1400-2300/-. In the rejoinder he has further stated that previously those persons who were drawing pay in the scale of pay of Rs.140-280/- prior to the Third Central Pay Commission's report, after that report they were allowed to draw ~~the~~ pay in the scale of Rs.425-700/- but he though was drawing his pay in a higher scale of pay prior to the Third Central Pay Commission , after the Third Central Pay Commission Report, his pay was fixed in the lower scale of pay of Rs.380-560/- which was arbitrary. He has also reiterated in the rejoinder the allegation that he holds a post which is non-ministerial, technical and executive. To this rejoinder he has annexed a copy of the Office order of the Dandakaranya Development Authority dated 20.3.1986 as Annexure-A9.

M/s. S. S. 9.81.

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5. The area of dispute is rather narrow. Except for a minor difference with regard to when the applicant was appointed as **Mobile Squad Inspector** and when his appointment as such Mobile Squad Inspector was regularised, other facts are almost admitted. The moot point for consideration is whether the applicant will be taken to be entitled to the scale of pay he has asked for on the basis of being workshop, non-ministerial, technical and executive post holder. From the counter itself it would be found that those persons who were drawing pay in the pre-revised scale of pay of Rs.380-560/- prior to the Fourth Central Pay Commission, were allowed to draw pay in the scale of pay of Rs.1320-2040/- after 1.1.1986. The factual aspect of this part of the counter has not been challenged in the rejoinder but what the applicant has stated is that there is no rational basis for providing the same scale of pay for two pre-revised scales of pay. Therefore, to this extent the provision in the Fourth Central Pay Commission report is invalid. The recommendations of one scale of pay for more than one pre-revised scale of pay was based on rational criteria namely to minimise the number of scales of pay and to provide uniform pay for persons doing jobs whose work involves at least similar responsibility. Therefore, the applicant cannot succeed on the ground that he cannot be asked to draw pay in the scale of pay of Rs.1320-2040/- as only one scale was provided for another pre-revised scale of pay of Rs.380-530/-. Under Annexure-A.7, Government of India in the Ministry of Finance (Department of Expenditure) Implementation Cell, after publication of the Third Central Pay Commission Report stated all the scales of pay prescribed for different posts in the Dandakaranya Development Authority. Item No.66 is Mobile Squad Inspector and it has been

12/20/1989

mentioned that prior to Third Central Pay Commission's report the scale of pay for that post was Rs.205-280/- and it was revised to Rs.380-560/-. Since Annexure-A.7 filed by the applicant himself is an authority to show that he was drawing pay in the scale of pay of Rs.380-560/- and that admittedly under the Fourth Central Pay Commission's report for this scale of pay the revised scale of pay prescribed has been Rs.1320-2040/-, the applicant cannot have any grievance. The only other question that needs consideration is whether the applicant would come under category of workshop staff, non-ministerial, technical and executive. In this connection, a reference to Annexure-R/1, notification issued by the Government of India, Ministry of Supply and Rehabilitation dated 11.12.1989 may be made. There, it was stated that the post of Mobile Squad Inspector was a Group C service, non-gazetted, and non-ministerial. But there is no mention of it being executive or technical post. From Annexure-R/5 which is a clarification issued by the Government of India, Ministry of Finance, Department of Expenditure, Implementation Cell, it would be found that classification staff of Dandakaranya Development Authority are not industrial/workshop staff and further that they will not be entitled to replacement scales notified in the Part 'A' of the First Schedule to C.C.S. (Revised Pay) Rules, 1986 only. That clinches the matter. In any view of the matter, the applicant cannot be found entitled to the reliefs he has prayed for. Accordingly, the application is dismissed but however without any costs.



Alka Singh
Member (Judicial)
29-9-89

Central Administrative Tribunal,
Cuttack Bench/Cuttack.
September 29, 1989/Sarangi.