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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 11.07.2001

O. A. No. 30/2001.

Lal Singh, S/o Shri Baney Singh R/o House No. 633,
Sector 18 Chopasani Housing Board, Jodhpur Working
as Upper Division Clerk, K.V. No. 2 (Air Force),
Jodhpur.

APPLICANT...

VERSUS

1. Union of India through Secretary Ministry of Human Resources and Development (HRD), Shastri Bhawan, New Delhi.
2. Additional Secretary, Ministry of HRD cum Vice Chairman K.V.S. Department of Education, Shastri Bhawan New Delhi.
3. Commissioner K.V.S. (H.Q.) 18 institutional Area, Saheed Jeet Singh Marg New Delhi.
4. Deputy Commissioner (Academic) K.V.S. (H.Q.) 18 institutional Area, Saheed Jeet Marg, New Delhi.

RESPONDENTS...

Mr. K. S. Chouhan, counsel for the Applicant.

CORAM

Hon'ble Mr. Justice, B. S. Raikote, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Lal Singh has prayed for a direction to the respondents to fix the pay of the applicant in the scale of Rs. 5000-150-8000 and pay the arrears alongwith the interest @ 24% per annum. The applicant has also prayed for extending the benefit of Assured Career Progression Scheme (ACP) with all consequential benefits

Gopal Singh

2. Applicant's case is that he was working on the post of Upper Division Clerk (U.D.C., for short) and the pay scale of Rs. 4,000-100-6,000^{was} prescribed for the said post by the Vth pay Commission. The applicant was also handling cash and for that purpose he was granted special pay of Rs. 70/- per month. It is the contention of the applicant that Vth Pay Commission had recommended the pay scale of Rs. 5,000-150-8,000 to those U.D.Cs. who were drawing a special pay of Rs. 70/- per month. The respondents department has however fixed the pay of the applicant in the pay scale of Rs. 4,000-100-6,000. Representations were made by the applicant in this regard, but to no avail. Hence, this application.

3. Vth Pay Commission recommendations has accepted by the Government of India, provided a pay scale of Rs. 5,000-150-8,000 for U.D.Cs. who were drawing special pay of Rs. 70/- per month, The U.D.Cs. not drawing the special pay were given the pay scale of Rs. 4,000-100-6,000. The upgraded scale given to the U.D.Cs. drawing special pay of Rs. 70/- per month was subject to fulfilment of specific conditions. Government of India, Department of Expenditure, O.M. No. F.6/31/99-IC, dated 19.03.1999, provides the course of action to be adopted for placement of U.D.Cs. carrying the pay scale of Rs. 1200-2040 with a special pay of Rs. 70/- per month in the revised pay scale of Rs. 5,000-150-8,000. We consider it appropriate to extract below the Government of India order dated 19.03.1999 :-

" G.I., Dept. of Expenditure, O.M. No. F.6/31/99/IC, dated 19.03.1999.

Grant of upgraded pay scale to 10% posts

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of the UDCs in non-secretariat administrative offices for fixation of pay.

The undersigned is directed to say that consequent to the recommendations of Fifth Central Pay Commission regarding upgradation of 10% posts of UDCs in receipt of special pay at the rate of Rs.70 per month to the level of Assistant in the pay scale corresponding to Rs. 1,600-2,660, the upgraded pay scale for such posts of UDCs was notified vide Notification, dated 30.09.1997. However, certain doubts have now been raised regarding the procedure to be followed while granting the upgraded pay scale to the UDCs covered under this scheme. The matter has been examined in this Department in consultation with the Department of Personnel and Training. It has been decided that the following course of action may be adopted for placement of UDCs carrying the pay scale of Rs.1,200-2,040 with special pay of Rs.70 per month in the revised scale of Rs. 5,000-8,000, as mentioned against SI No.1(g) of Part-B of the First Schedule to CCS (RP) Rules, 1997:-





- (a) UDCs posted against 10% identified posts may initially be placed in the scale of Rs.4,000-6,000 and allowed special pay of Rs.140 per month with effect from 1-1-1996.
 - (b) A sanction may be issued to create additional posts of Assistants in the scale of Rs.5,000-8,000 equal to a number of 10% identified posts of UDCs carrying special pay of Rs.70 per month.
 - (c) Against the additional posts of Assistants so created, UDCs may be considered for promotion on the basis of seniority-cum-fitness. Their pay on promotion may be fixed in terms of FR 22(1) (a) (1). Further wherever UDCs are carrying special pay of Rs. 140, this may be taken into account in fixation of pay.
 - (d) From the date, the additional created posts of Assistants are filled up by promotion as mentioned in (c) above, the posts of UDCs carrying special pay of Rs.140 per month (pre-revised Rs. 70) may be abolished.
 - (e) If any UDC drawing a pay of Rs. 140 (pre-revised Rs.70) does not get promotion to the post of Assistant in terms of Para. (b) above, he may be transferred and posted against an unidentified post of UDC not carrying special pay. From the date of transfer to the unidentified post the special pay of Rs. 140 may be discontinued.
2. The existing orders on the subject stand modified to the extent mentioned in Paras. (a) to (e) above."

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4. It would be seen from the Government of India letter dated 19.03.1999, that the UDCs drawing special pay of Rs. 70 per month were not to be granted higher scale of pay of Rs.5,000-150-8,000 automatically. New posts of Assistants in the pay scale of Rs.5,000-150-8,000 equal to the number of 10% identified posts of UDCs were to be sanctioned and the UDCs drawing special pay of Rs.70 per month were to be upgraded to the pay scale of Rs. 5,000-150-8,000 by promotion. In the intervening period their special pay was increased to Rs.140 per month. UDCs who could not be promoted to the post of Assistants in the pay scale of Rs. 5,000-150-8,000 were to be posted against an unidentified post of UDC not carrying the special pay and with ^{the} transfer to the unidentified post, the UDC concerned would cease to draw the special pay of Rs. 140. Thus, respondents department has to examine the case of the applicant in terms of Government of India order dated 19.03.1999(Supra) and extend the benefit to him if permissible. Accordingly, we pass the order as under :-

" The OA is disposed of with a direction to the respondents to consider the case of the applicant in terms of Government of India Circular dated 19.03.1999 and extend him the benefit of higher pay scale if found permissible. No costs."



(GOPAL SINGH)
Admn. Member


(JUSTICE B.S. RAIKOTE)
Vice Chairman

P. / C.

Part II and III destroyed
in my presence on 16/5/07
under the supervision of
section officer (1) as per
order dated 13/3/07
NGD 4
Section officer (Record)

Confidential original of E-its Annex
sent to Respl 710 1 to 4
WJ 510 249 to 252 C. 16 18/7/2007
AD Rami from R. 1 to R. 4 witness
Confidential order sent to the AD Rami
WJ 510 269 C. 16 24.7.2007
AD Rami 710 510
WJ 510