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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

OA No. 678/88

Krishnaji Gurunath Kulkarni ..Applicant

V/s.

Union of India & ors. ..Respondents

Coram: Hon. Shri Justice M.S. Deshpande, V.C.
Hon. Shri M Y Priolkar, Member (A)

ORAL JUDGMENT: DATED: 7.10.1993
(PER: M.Y. Priolkar, Member(A))

Applicant present in person. Mr. P.M. Pradhan
counsel for respondents.

2. The applicant while serving as Inspector, Central Excise, Ordinary Grade, was promoted on 18.7.86 as Inspector Central Excise, Selection Grade, in the pre-revised pay scale which was then existing viz., Rs.550-900. Subsequently, in pursuance of the recommendations of the IVth Pay Commission the applicant's pay was fixed at Rs.2120/- in the pay scale of Rs.1640-2900. A decision had also been taken in pursuance of the IVth Pay Commission's recommendations to merge the pre-revised scales of Inspector Ordinary Grade and Inspector Selection Grade into an integrated scale of Rs.1640-2900 retrospectively with effect from 1.1.1986. The applicant was drawing a basic pay of Rs.725/- in the pre-revised scale with total emoluments of Rs.1959.20 on promotion to the post of selection grade inspector in the pre-revised scale. Pursuant to the merger of the pay scales in effect, there was no selection grade with effect from , 1.1.1986 and consequently by order dated 30.12.86, the pay of the applicant was fixed at Rs.2,000/- in terms of the pay fixation formula laid down in the pay revision rules. The grievance of the applicant is that the pay should have been fixed in the revised pay scale on the basis of his basic pay viz., Rs.725/- in the pre-revised scale of Inspector Selection Grade in which case the pay would have

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been fixed at Rs.2120/- and not on the basis of basic pay of Rs.660/- as on 1.1.1986 in the pre-revised pay scale of Inspector Ordinary Grade as has been done.


3. The applicant who argued in person contended that the explanatory memorandum to the Central Civil Services (Revised Pay) Rules, 1986 which have been framed to give effect to the recommendation of the revised pay scales by the IVth pay commission from 1.1.1986 specifically certify that the retrospective effect being given to these Rules would not affect adversely any employee to whom these Rules apply. The contention of the applicant is that if these Rules being Pay Commission's recommendations were to be made effective only from the date of the issue of these Rules viz., 13.9.1986, the applicant would have received total emoluments of Rs.2120/- in the revised pay scales but because of retrospective effect to the rules i.e., with effect from 1.1.1986, his pay has been fixed at Rs.2000/- thus he has been adversely affected by the retrospective application of the rules. We are unable to agree with this argument as, evidently, the adverse effect, if any is to be reckoned from the date of the retrospective application viz., 1.1.1986 which is the crucial date from which all the major recommendations of the Pay Commission have been implemented. It is very clear from the explanatory memorandum itself that this retrospective effect actually provides greater benefits to the Government servants in general. It is clear that but for the IVth Pay Commission's recommendations, even after promotion to the selection grade, the applicant's total emoluments as on 18.7.86 would be only Rs.1959.20 which would still be less than Rs.2000/- which is the revised pay fixed on 1.1.1986. No doubt, if the effect to the Pay Commission's recommendations was given from September 1986 the benefit to the applicant would have been much more than what he is getting now because of retrospective effect to the Pay Commission report. But that would not be a ground to hold that the date fixed viz., 1.1.1986 for giving effect to pay Commission's recommendations is arbitrary or discriminatory.

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4. The applicant has also drawn our attention to a combined seniority list of Inspectors of Central Excise and Customs as on 1.1.1989 where he is at serial no.288 and shown as having been promoted to the selection grade on 18.7.1986. This seniority list has been circulated on 27.3.89. Since it shows the seniority position as on 1.1.89, the applicant's contention is that even according to this seniority list which was circulated as late as in 1989, he should be considered to be holding the selection grade post on 18.7.86 and there was no justification for any re-fixation of pay cancelling the promotion to the Selection grade. A perusal of this seniority list dated 27.3.1989, however, shows that it was not a final list but only a provisional seniority list which is circulated for information of all concerned who have been specifically asked to verify all the particulars shown in the various columns with reference to service books and report any anomalies to the HQ office at Bombay. In any case a provisional seniority list can not take the place of authentic record for the purpose of deciding the pay and allowances on promotion.

5. In view of the above, we see no merit in the application. It is dismissed accordingly with no order as to costs.


(M.Y. Priolkar)
Member (A)


(M.S. Deshpande)
Vice Chairman