

(15)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

O.A. No. 364/88

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~~TAXXNXX~~

DATE OF DECISION 29.8.91

Beig Singh B. Jaswal

Petitioner

Mr. M.A. Mahalle

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. V.S. Masurkar

Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal? *no*

MGIPRRND-12 CAT/86-3-12-86-15,000

  
( U.C. Srivastava )  
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY  
\* \* \* \* \*

Original Application No.364/88

Beigsingh B.Jaswal,  
Flat No.15, 3rd Floor,  
'A' Block, Madhuban CH Society Ltd.,  
Worli Hill Scheme,  
Bombay 400 018.

... Applicant

V/s

Union of India & Ors.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava.

Appearances:

Mr. M.A.Mahalle, Advocate  
for the applicant and  
Mr. V.S.Masurkar, Advocate  
for the respondents.

ORALJUDGEMENT

Dated : 29.8.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant who joined the Income Tax Department in the year 1958 as ULC was promoted and posted as Income Tax Officer in the Special Audit Party ~~in~~ <sup>at Bombay</sup> ~~Bombay~~ in the year 1973. According to the applicant the work of Special Audit Party is very arduous nature and of grater responsibility. The applicant was posted to a charge wherein officers two grades above him i.e. officers of Group-A Senior Scale are posted and they were also paid special pay and as such the applicant is also entitled to special pay. He was also posted as Chief Auditor ~~as~~ in addition to the posting as Income Tax Officer in Special Audit Party on 1.6.1987 and during the financial year 1986-87 he worked as Income Tax Officer, Special Audit Party but special pay was not paid to him though to the others it was given and he made representation against the same making reference to FR 22-C. Failing to get any relief he approached the Tribunal. The applicant has placed reliance on a

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circular issued on 5.6.1984 in which directions <sup>were</sup> ~~was~~ given not only in respect of Group-A officers but also <sup>in respect of</sup> Group-B Officers that they will also be given special pay of Rs.75/- per month. ~~But~~ The said arrangement was upto 30th June 1984 but according to the applicant even if the post was transferred to Bihar his right to special pay was in tact. The respondents have opposed the application and have pleaded that as far as the Internal Audit is concerned, four posts of Group-B officers were sanctioned to draw special pay and one post of Chief Auditor is eligible for special pay. ~~He further~~ <sup>pleaded that</sup> the circular dated 14.5.84 on which reliance has been placed it was noticed that inadvertantly two posts of Chief Auditor meant for Bombay charge were given to Bihar charge and they were meant for Group-A Officers. Subsequently it was clarified that the special pay to the extent sanctioned should be paid to the officers manning these posts on the basis of seniority. Even if there may be some conflicts in fundamental rule 22-C and the circular referred to above but the applicant was not sanctioned any special pay by the sanctioning authority and as such his claim was not paid to him more so he was not entitled to it. It has also been mentioned that the work of the applicant was Income Tax Officer was inspected and his explanation was called for and on verification of the matter it was found that under certain questionable circumstances the assessments have been completed by the applicant and that is why it was considered in public interest to post the applicant to a post having no public contact and accordingly he was posted as Income Tax Officer, Special Audit which does not involve public contact <sup>as such</sup> and the applicant is not entitled to any special pay. The special pay as

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as defined under F.R.9(25) reads as under:-

"Special pay means an addition, of the nature of pay, to the emoluments of a post or of a Government servant, granted in consideration of -

- (a) the specially arduous nature of the duties /
- (b) a specific addition to the work or responsibility."

F.R. 22-C reads as under:-

"Notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at a stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued:"

Although special pay was granted to the applicant for a later period but the applicant is claiming it for the earlier period<sup>to</sup>. Neither parties have placed on the the record the appointing order of the applicant appointing him in the Audit Side or appointing him as Chief Auditor. As such the position so far as the appointment is concerned is not clear. The F.R.22-C requires that in case an case an appointment is made to another post, may be in substantive or temporary officiating capacity carrying duties and responsibilities of greater importance then the post held by the person concerned will be entitled to special pay. There are assertions and counter assertions to this effect. In case the applicant was appointed even on officiating or temporary capacity the applicant is

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entitled to special pay in view of FR 22-C. ~~But the~~  
~~appointment is not clear.~~ Accordingly respondents are  
directed to pay special pay to the applicant for the  
period claimed by him in case he was appointed to the  
post including that of Chief Auditor ~~sixxxxx~~ in respect  
of which he is claiming special pay either on temporary  
on officiating basis. ~~In case the appointment was on~~  
~~temporary or officiating basis then~~ The special pay shall  
be paid to the applicant within a period of three months  
from the date of communication of this order. There  
will be no order as to costs.



( U.C. Srivastava )  
Vice-Chairman