

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY  
CAMP : NAGPUR

OA.NO. 195/89

Shri V.M.Bhojraj ... Applicant

vs.

Chairman, Central Board of Excise  
and Customs, New Delhi & Ors. ... Respondents

CORAM: Hon'ble Vice-Chairman Shri G.Sreedharan Nair  
Hon'ble Member (A) Shri I.K.Rasgotra

Appearance

Applicant in person

Mr.M.G.Bhangade  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 6.8.1990

(PER: G.Sreedharan Nair, Vice Chairman)

Heard the applicant who appeared in person as well as Advocate Mr.M.G.Bhangade, counsel of respondents, as the respondents were put on notice regarding the question of admission.

2. The applicant retired as Chief Administrative Officer on 31.5.1986. His pension was originally fixed at Rs.1303/- which was later revised to Rs.1571/-p.m. Subsequently, after the report of the Fourth Central Pay Commission calculating the emoluments as recommended by the Commission, his pension was fixed at Rs.1590/-p.m. The grievance of the applicant is that as he was drawing a special pay of Rs.150/-p.m., that should also have been taken into account in the matter of fixation of his pension. According to him, when so done, he will be entitled to pension of Rs.1628/-p.m. He prays for quashing the relevant orders with respect to the fixation and for fixation of his pension at Rs.1628/-p.m.

... 2/-


3. A statement showing the recommendations of the Fourth Central Pay Commission relating to Pension Structure for Pensioners and the decision of Government thereon are contained in Annexure- Ex.36. It shows that reckonable emoluments for purposes of calculating pension and other retirement benefits should be the basic pay as defined in F.R. 9(21)(a)(1), according to which special pay is specifically excluded.

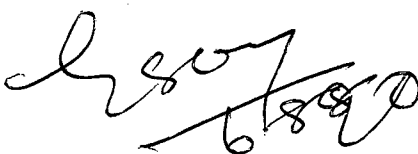
4. Admittedly, the employees were allowed the option to switch over to the revised pay scale and accordingly the applicant opted in favour of the revision. It is evident from the statement showing the recommendations of the Fourth Pay Commission that while suggesting the revised payscale the Commission has suggested the new special pay in certain cases. So far as the post held by the applicant<sup>s</sup> concerned, no special pay has been attached after the revision.

5. In view of the above, especially when the applicant has exercised his option, it is not open to him to claim that the special pay of Rs.150/- which was earlier attached to the post should also be taken into account in the matter of commutation of his pension.

6. It was submitted by the applicant that the recommendations of the Pay Commission taking away the special pay is illegal. We are afraid it is not a matter that falls within the purview of judicial review, as the recommendations were of an expert body specially constituted for making recommendations with respect to the payscale, pension structure etc. and whose recommendations were accepted by the Government.

7. The application is rejected.

  
(I.K.RASGOTRA) 6/8/79  
MEMBER (A)

  
(G.SREEDHARAN NAIR)  
VICE CHAIRMAN