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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 462/92
TR.A.NO.

199

DATE OF DECISION 20.9.1993

Dr. Anand Baburao Tatte

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

1. Whether it be referred to the Reporter or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

} NO

U. Savar
(MS. USHA SAVARA) 1993
MEMBER (A)

VICE CHAIRMAN

mbm:

(7)

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

D.A. No. 462/92

Dr. Anand Baburao Tatte

.. Applicant

vs.

Union of India & Ors.

.. Respondents

Coram: Hon'ble Ms. Usha Savara, Member (A)

Appearances:

Shri P.N. Chandurkar
Advocate
for the Applicant.

Mrs. Thomson
for Mr. Ramesh Darda
Advocate for the
Respondents.

JUDGMENT
(Per Usha Savara, Member (A))

Date: 20-9-93

The short point for adjudication is whether Post-Graduate Allowance (PGA) is "Pay" under Section 9 (21)(a) (i), (ii) & (iii) and whether Dearness Allowance is payable on it.

2. Reply has been filed by the respondents and they have relied upon the rules and have held that the applicant is not entitled for D.A. on P.G.A. as it is defined under FR 9(21)(a)(iii). Reliance is placed upon Office Memorandum No. F1(23)EIII (A)/76 dated 27.11.1976 of the Ministry of Finance for holding this view. Under Rule 9(21)(a) Pay means the amount drawn monthly by a Government servant as -

(i) the pay, other than special pay or pay granted in view of his personal qualification, which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre;

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- (ii) overseas pay, special pay and personal pay; and
- (iii) any other emoluments which may be specially classed as pay by the President.

It is contended by the respondents that P.G.A. is to be treated as pay under FR 9 (21) (a) (iii) as it is an allowance granted for acquiring Post graduate degree and D.A. is not payable on P.G.A.

3. The parties have been heard. The applicant has filed before us letter dated 10.8.1993 by which he has been granted P.G.A. for the period from 1.3.1993 to 30.9.1993 subject to the condition that the original terms and conditions are applicable in 1993-94. Para 2 lays down that the Post-Graduate Allowance shall be treated as pay for the purpose of FR 9 (21)(a)(iii). Under the original terms and conditions in terms of Ministry of Health & Family Welfare Office Memorandum dated 24.8.1987 the applicant was not being paid D.A. on P.G.A. The applicant has also filed Govt. of India, Ministry of Finance, O.M. No. 13011/1/E.II(B)/76, dated 21.11.1977 on the subject of grant of D.A. to the Central Govt. employees. It is clarified that the term "Pay" for the purpose of grant of the allowance includes only pay, personal pay and special pay as defined in F.R. 9 (21) (a) (i), F.R. 9 (23) and 9 (25) respectively. Under 9 (23) additional pay is granted to a Govt. servant as "personal pay" to save him from a loss of substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure". F.R. 9 (25) defines special pay as an addition, of the nature of pay, to the emoluments of a Govt. servant, granted in consideration of -

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- (a) the specially arduous nature of the duties
- (b) a specific or addition to the work or responsibility, and includes non practising allowance granted to doctors in lieu of private practice.

From the definitions themselves, it is clear that P.G.A. does not fall within the category of F.R.9 (21) (a)(i), 9 (23) or 9 (25). That being so, the applicant's prayer must fail.

4. The applicant also tried to base his case on Govt. of India, Ministry of Finance O.M. dated 27-11-1982, which clarifies the calculations regarding Dearness Allowance. It was his contention that "qualification pay" mentioned therein includes Post Graduate Allowance. The P.G.A. is an allowance granted for possessing or acquiring specified Post-graduate diploma or degree qualifications. If it was to be included in the definition of 'Pay', entitled to grant of D.A., then the order dt. 10-8-93 would have specified that it shall be treated as pay for the purpose of F.R.9(21) (a)(i), and not F.R.9 (21)(a)(iii).

5. In the circumstances, I am constrained to hold that the Post-graduate allowance is not 'Pay' for the purpose of grant of dearness allowance, and, therefore, the application has no merit, and it must be dismissed. Accordingly, the application is dismissed, but with no order as to costs.

Usha Savara
26.7.93
(Ms. USHA SAVARA)
Member (A)

Campal Nagpur

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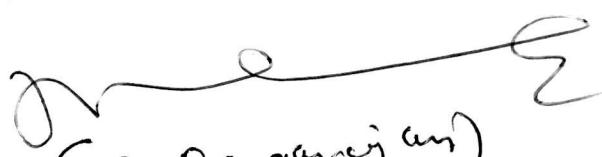
R.P. 122/93 is O.A. 462/92

Date: 16.9.94

Review Petitioner present in person. ~~The~~ Mr. R. P. Dandekar for the respondents.

The only point ever made out in the R.P. is that the Post-graduate allowance is to be treated as special pay allowance which entails him dearness allowance on that Post-graduate allowance as shown ~~is~~ in the Appendix-8 regarding Special Pay. This point has been fully covered in the judgment and the Rules governed under F.R. have been fully explained in the judgment.

In view of this I do not find any error apparent in the face of the judgment. The only course is to file an appeal before the appropriate forums. R.P. is dismissed


(R. Rangarajan)

or A

(Copy of T.O. dtd. 16.9.94
sent to counsel for Resp
on 22/9 & by post to
applicant on 22/9/94.)


22/9/94.