

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 250/93

XXXXXXXXXXXXXXXXXXXX

DATE OF DECISION 15.2.1994

Shri R.R.Pillai

Petitioner

Shri S.Natarajan

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri R.K.Shetty

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

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


(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 250/93

Shri R.R.Pillai

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri S.Natarajan
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 15.2.1994

(PER: M.S.Deshpande, Vice Chairman)

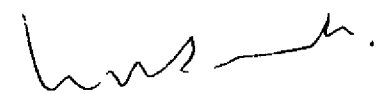
The applicant ^{who} was granted special pay of Rs.70/-p.m. by the letter dated 12.5.1992 (Ex.A-3) has filed this application in view of the order dated 12.2.1993 by which that benefit was taken away and he was asked to refund the amount of Rs.70/-p.m. special pay paid from 1.5.1992 to 31.1.1993. Under the scheme which was prepared by virtue of the letter dated 5.5.1979 (Ex.A-2) the UDCs in the non-secretariat Administrative Offices attending to work of a more complex and important nature were to be granted a special pay of Rs.35/-p.m. subject to the condition that the total number of such posts should be limited to 10% of the posts in the respective cadre and these posts were to be identified as carrying discernible duties and responsibilities of complex nature higher than those normally expected of Upper Division Clerks.

(5)

2. According to the applicant, there were 47 posts with the result that five of the incumbents could have get the benefit of special pay while ^{according to the respondents} there were 42 posts in the cadre and the 4 senior most persons ^{only} could have been given the benefit of the letter dated 5.5.1979. After it was discovered that the applicant was wrongly granted the benefit, he was asked to refund the amount of special pay from 1.5.1992 to 31.1.1993. There is no dispute that by the letter dated 16.2.1993 the applicant was again given the benefit of the special pay w.e.f. 1.2.1993.

3. It must be noted that as per the scheme the benefit was to be limited to only 10% of the posts which in the present case would be only four and this benefit was not intended to be conferred on the next senior person who happened to be the present applicant. Since the scheme itself did not allow the enlargement of the ~~scheme~~ ^{grant}, the applicant cannot claim the benefit of the scheme. In view of this position, the applicant is not entitled to any relief.

4. However, it is always open to the Government to waive the condition considering that the applicant's duties were of a more complex and important nature and came to be identified as such ^{and} he should not have been deprived of the benefit of the special pay. It is always open to the Government to waive this condition and still grant the benefit to the applicant. This, however, is not a matter on which the Tribunal can interfere. The applicant is at liberty to make a representation for waiving of 10% posts and allow him to grant the special pay. The Government should consider whether such a benefit could be granted to the applicant which would be purely ex-gratia. With this observation the application is dismissed.



(M.S. DESHPANDE)
VICE CHAIRMAN