

O.A.No.413/93

Dt. of order: 11.4.94

Smt.Chandravati

: Applicant

Vs.

Union of India & Anr.

: Respondents

Mr.R.N.Mathur

: Counsel for the applicant

Mr.Manish Bhandari

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.).

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant Smt.Chandravati, has filed this application under Sec.19 of the Administrative Tribunals Act, 1985 wherein she has sought the following reliefs:

- "i) That the order dated 2.7.93 may be set aside and quashed.
- ii) That the respondents may be directed not to take away benefit of special pay of Rs.70/- granted to the petitioner by order dated 3.3.90 (Annex.3).
- iii) That the respondents may be directed that petitioner shall continue to receive salary on the basis of pay fixation made after taking into consideration the special pay of Rs.70/- be given to her."

2. The applicant's case is that ^{while} she was ~~while~~ working as a U.D.C. in the scale Rs.1200-2040 (PF) she was offered special pay of Rs.70/- per month on account of the higher responsibilities attaching to the post on which she was asked to work. However, due to some personal circumstances she was unable to accept the higher duties and the offer of special pay of Rs.70/- per month. As per the rules, she was debarred from getting the special pay for a period of one year. Subsequently the special pay of Rs.70/- per month was again given to her vide order dated 3.3.90. By that time the period of ^{period} debarment ~~of~~ one year had already expired. She started receiving the special pay of Rs.70/- per month vide order dated 3.3.90. She continued to receive the said amount till the month of June 93. Subsequently, vide order dated 2.7.93 (Annex.1) orders were issued for stopping the payment of special pay to her as also for recovery of the amount already paid. The applicant's case is that the instructions regarding grant of special pay have

been wrongly interpreted by the respondents. After the initial period of debarment of one year she started working on the higher post to which special pay of Rs.70/- was attached and she was getting the said amount by virtue of her performing duties attaching to the post carrying higher responsibilities. The respondents have not issued any show cause notice before stopping payment of the special pay and ordering recovery of the amount already paid to her.

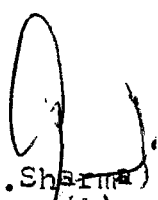
3. The respondents in their reply have relied on Annx.R-1 which is Railway Board's letter dated 11.7.79, relating to grant of special pay of Rs.35/- now raised to Rs.70, to Senior Clerks, Clerks Grade-I in the old scale Rs.330-560. In para 2 of the said instructions, it is stated that in case some-body senior enough is not willing to be considered for these posts or he is not considered suitable for the same, he should clearly be told that he will have no claim for higher fixation of pay subsequently when he is selected for higher grade. According to the respondents, in view of these instructions once the applicant expressed her unwillingness for accepting higher responsibilities and grant of special pay attaching to the post, she is not eligible for being again considered for grant of special pay.


4. We have heard the learned counsel for the parties. The letter Annx.R-1 dated 11.7.79 speaks about higher fixation of pay subsequently of an incumbent who refused the special pay when ^{is} he selected for a higher grade. We are dealing here with the limited question of grant of only special pay to an employee who after the initial debarment period of one year is again offered the post carrying higher responsibilities and the special pay attached to it. In our view there is nothing in the letter dated 11.7.79 to suggest that there is any bar to grant of such special pay once a person has again been asked to hold the post carrying higher responsibilities with special pay attached to it. In the circumstances, the applicant shall be entitled to the special pay of Rs.70/- as long as she is continued on the said post. We had granted stay against recovery of the amount already

disbursed to the applicant, vide order dated 15.7.93, ~~that the~~
~~recovery shall not be effectual~~

4. We make it clear here that we are adjudicating only on the specific issue of grant of special pay to the applicant as long as she continues to work on the post to which the special pay is attached ^{the} and recovery of the amount of special pay already disbursed to her. We set aside the order Annx.A-1 to the extent that it debars the applicant from getting special pay of Rs.70/- as long as she continues to hold the post to which the special pay is attached and orders ~~the~~ recovery of the special pay already disbursed to her.

5. The O.A. is disposed of accordingly with no order as to costs.


(O.P. Sharma)
Member (A).


(Gopal Krishna)
Member (J).