

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR

Original Applications No 172 of 2004

Gwalior, this the 21st day of June, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. Bhagwang Singh Parmar
S/o Late Shri Jai Singh Parmar,
Age 58 years, Occupation :
Senior Auditor & President
Audit Welfare Association,
O/o The Pr.A.G(Audit)-I
(M.P) Gwalior,
R/o B-68, Subhash Nagar,
Hazeera and 54 others.

(By Advocate – Shri D.P.Singh)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Finance,
Department of Exp.
Govt. of India, New Delhi.
2. The Comptroller and Auditor
General of India, 10 Bahadur
Shah Zafar Marg, New Delhi-02
3. The Principal Accountant General
Audit I, Motimahal, M.P. Gwalior.
4. The Accountant General(A&E) I,
M.P. New Building, Jhansi Road,
Gwalior.

Respondents

(By Advocate – Shri M.Rao)



ORDER

By Madan Mohan, Judicial Member :-

By filing this OA, the applicants have sought the following main reliefs:-

“(1) the respondents be directed to grant the benefit of special pay of Rs. 35 with effect from 1.1.1986 when the incumbent juniors were getting the same benefit and worked out arrears and make the payments thereupon revising the salary along with the interest of 18% as per the decision of the Shankar Singh's case.

(2) the respondents be further directed to revise the pay-scale with effect from 1.1.1986 and also grant the similar benefits at par to the incumbent juniors and also grant the other consequential and monetary benefits.”

2. The admitted facts of the case are that the applicants were initially appointed as LDC/UDC and in due course of time they were promoted on the post of Auditor on different dates as mentioned in Annexure-A-1. The office of the Accountant General of Madhya Pradesh was bifurcated in two distinct and separate independent offices i.e. (i) Accountant General (Audit) and (ii) Accountant General (Accounts and entitlement). The designation of the Auditors working in the office of the Accountant General (Audit) remained same whereas the Auditors of the composite office who opted to go in the office of A.G.(A&E) were designated as Accountant. As the applicants have opted for office of the Accountant General (Audit). They are still working as Auditors. Based on the orders of Ministry of Finance 10% posts of the Accountants and Selection Grade Accountants were granted special pay of Rs.35/- per month for performing complex nature of duties. Since the applicants have not been granted the special pay of Rs. 35/-, they have filed this OA.

2.1 The applicants have stated that their case is similarly placed as that of one Shankar Singh Vs. UOI and Anr, decided by the Supreme Court on 19.1.1995 in Civil Appeal No.1886 of 1994 where similar



person have been granted the benefit of special pay. In view of the decision of the Hon'ble Supreme Court, they should also be granted the same benefit.

3. The respondents in their reply have stated that the case of Shankar Singh (supra) is not applicable to the present case as much as Shankar Singh was born on the strength of Accounts stream whereas the applicants have opted for the Audit Stream. On bifurcation of the office of the Accountant General the scheme of special pay of Rs.35/- was applicable only for Accountants working in the office of the Accountant General(A&E) and it is not applicable for the Auditors who are working in the office of the Accountant General (Audit).

4. Heard the learned counsel for the parties and carefully perused the records.

5. After hearing the learned counsel for the parties and on careful perusal of the records, we find that it is an admitted position that the composite office of Accountant General was bifurcated into two independent and distinct offices i.e. Accountant General (Audit) and Accountant General(Accounts and Entitlement). The relevant portion of Annexure-A-3 reads as under :-

"3.8.4 Accountants and SG accountants who perform functions of a complex nature not exceeding 10% of the cadre strength of accountants including SG accountants are eligible to a special pay of Rs. 35 p.m. in accordance with Government of India Ministry of Finance orders on the subject.

As far as possible the criterion of seniority may be followed in selecting persons for jobs of complex nature for grant of special pay. It is left to the discretion of the Accountants General (A&E) to identify posts for the purpose according to local needs."

In terms of the aforesaid order of the Ministry of Finance, the special pay of Rs. 35/- was admissible only to the Accountants/Sr.Accounts at

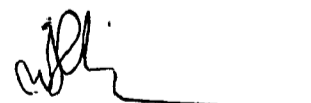


the discretion of the Accountant General (A&E) as is mentioned in the above orders. Thus the applicants have failed to show us any document by which the Auditors who were working in the office of the Accountant General (Audit) were granted special pay of Rs.35/-, and have the decision of Shankar Singh (supra) is not applicable to the facts of the present case as said Shankar Singh was working as Accountant in the office of the Accountant General (A&E) where the scheme of special pay was applicable. In the instant case, the applicants are working as Auditor in the office of the Accountant General (Audit), therefore, the decision of Shankar Singh is not applicable in the present case. The reliance placed by the learned counsel for the applicant in the case of Pradeep Deshmukh & Ors Vs. UOI & Ors. decided on 23.11.2001 in OA No.692/98 along with 8 cases is also not applicable in the present case. In the aforesaid OA No. 692/98 the applicants were working in the office of the Accountant General (A&E) and they were not working in the office of the Accountant General (Audit). Thus the applicants who were working as Auditors failed to establish their claim for grant of special pay of Rs.35/- p.m. which was payable only to the Accountants/Sr.Accountants at the discretion of the Accountant General (A&E). In this view of the matter we do not find any irregularity or illegality committed by the respondents. Accordingly, the OA is dismissed without any order as to costs.

6. The Registry is directed to always supply a copy of memo of parties along with this order while issuing a copy of the same to the concerned parties.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman