A P.S. SAWHNEY

v.

UNION OF INDIA AND ORS.

FEBRUARY 7, 1996

B K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law :

Increments—Grant of—Court's order—Clarification—Annual increments to be given to appellant till the maximum of the pay-scale is reached—The increments thereafter would form a special pay—However this is not applicable to other employees—Local allowances—Since appellant switched over to Central Government pay-scales, local allowance admissible at Rs. 20 p.m. as against Rs. 100 p.m. in respect of Punjab pay scales—Additional pay of 20% recommended by Fourth Pay Commission—Since the recommendation not accepted, not entitled the 20% of additional pay.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1525 of 1994.

From the Judgment and Order dated 13.12.91 of the Central Administrative Tribunal at Chandigarh, in O.A. No. 857-CH/89.

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Appellant-in-person.

Mrs. Kanwaljit Kochar and Ms. Rani Chhabra for the Respondents.

F The following Order of the Court was delivered :

This appeal by special leave arises from the order of the Central Administrative Tribunal, Chandigarh Bench made in O.A. No. 857/CH/89 on December 13, 1991. The Tribunal has rejected the claim of the appellant.

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The appellant argued in person. He contended that in view of the orders passed by this Court in C.A. No. 3685/87 on December 3, 1987, the appellant is entitled to the revision of pay-scales starting from Rs. 2,000 w.e.f., November 1978 with annual increment @ Rs. 100 which is not given to him. When this Court passed the order, the existing scale of pay was

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Rs. 1400 to Rs.2100, which was subsequently revised to Rs. 2200 to Rs. 4000 and w.e.f. 1.1.1986 to Rs. 3700 to Rs. 5300 p.m. as noted in the counter-affidavit in paragraph 4 which reads thus :

> "In accordance with the decision of this Hon'ble Court, the pay of the petitioner was fixed at Rs. 2,000 + Rs. 100 special pay by the Chandigarh Administration in the pay scale of Rs. 1400-60-1700-EB-75-2000-EB-100-2100 + Rs. 100 Special Pay from November, 1978 vide Chandigarh Administration's letter No : 334(IH)-3-88/1592 dt. 28.1.88, annexed as Annexure R-1. He was allowed to cross the Efficiency Bar at the State of Rs. 2,000 vide Chandigarh Administration's letter No : 619-IH(3)-88 1951 dt. 28.1.88 raising his pay from 2000 to 2100 + 100 S.P. w.e.f. 1.11.79".

Subsequently, the Government have revised the pay scale of the appellant from Rs. 3700 to Rs. 5300 on par with others. The grievance of the appellant is that instead of biannual, he is entitled to the increments annually starting from the pay scale of Rs.1400 to Rs. 2100 and proportionate revision thereof from time to time. It is seen that by proceedings dated January 28, 1988, the efficiency bar was lifted w.e.f. November 1, 1979. Thereafter his annual increment Rs. 100 was given but he reached the maximum of Rs. 2100 as on 1.11.80. From 1.11.1981 in the revised scales, the appellant was given of Rs. 100 as special pay. It would appear that there is a rule in the Punjab pattern that special pay of Rs. 100 was provided to every employee. Consequently when this Court had given the direction to pay Rs. 100 as annual increment, it would mean that the appellant would be entitled to the annual increments until he reaches the maximum of the pay scales. After reaching maximum of the pay-scale, the direction given by this Court of the payment of the annual increments would not form part of the pay scales but it must be considered to be special pay, since the directions given by this Court had became final. Consequently, he is entitled to the fixation of the payment of special pay of Rs. 100 every year till the revision in pay scale is effected and annual increment starts running. If the pay scale at the appropriate time again is in excess of pay which is directed to be made to the appellant, as soon as it reaches the maximum, then the pay would again form part of the special pay and not part of the pay-scales. Thus the order of this Court is required to be worked out.

A If the contention of the appellant is accepted then it would give rise to dichotomy, i.e., one scale of pay applicable to the appellant and another one applicable to the similarly situated persons. If that dichotomy is permitted to be continued, it would create further complications, for persons similarly situated would lay claim for parity. Therefore, we clarify that the order passed by this Court and granting annual increment would B mean that so long as the appellant does not reach the maximum of the appropriate pay scale prescribed, from time to time, he would be entitled to the annual increment @ Rs. 100 as directed by this Court. Thereafter, it would form as a special pay. This rule would not be applicable to others. However, when the pay-scale reaches the maximum after computation of C the annual increment of Rs. 100 till further revision is effected, it would form a special pay and would not form part of the pay-scales. The respondents are directed to work out the formula in that manner and pay arrears, if not already paid.

D It is then contended that the appellant is entitled to the local allowances on par with the Punjab pattern. When option was given to the appellant, he had not given his option. Therefore, he is entitled to the local allowances on par with the Punjab Government employees. We find no force in the contention. It is specifically mentioned in directions issued by the Government that the option given to them to switch over to the E pay-scales of the Central Government from Punjab pay-scales is irrespective of the local allowances. Local allowances are admissible as per the Central Government pay-scales. Admittedly, the Central Government allowances are Rs. 20 while the Punjab Rules provided Rs. 100. Consequently, the deduction of Rs. 80 per mensum is clearly consistent with the F directions issued by the Government. There is no illegality in that behalf.

It is then contended that over and above the revised pay scales, the appellant is also entitled to the 20% additional pay as recommended by the Central Fourth Pay Commission. Since it was not accepted by the Government, he is not entitled to the 20% of the additional pay.

G The appeal is accordingly allowed only to the above extent. No costs.

G.N. Appeal allowed.