

PETITIONER:
P.S. SAWHNEY

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 07/02/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1996 AIR 1540 JT 1996 (3) 125
1996 SCALE (2)378

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

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

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 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 stage of Rs.2,000/- vide Chandigarh Administration's letter No:619-IH(3)-88 1591 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 become 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.

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 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 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.

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 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 mensem is clearly consistent with the 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.

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

JUDIS