

P. S. Sawhney

Vs

R. K. Aggarwal and Another

Civil Appeal No. 3685 of 1987

(Ranganath Misra, G. L. Oza, M. N. Vankatachaliah JJ)

03.12.1987

ORDER

1. Special leave granted.

2. The appellant is the Head of the Engineering Department in the Central Polytechnic at Chandigarh. He moved the Central Administrative Tribunal for a direction for fixation of his pay at Rs. 1100 in the scale of Rs. 750-50-1300 plus Rs. 100 special allowance with effect from November 30, 1977, and for appropriate fitment of his pay in the revised grade. His application was registered as O.A. No. 10 of 1986 before the Principal Bench of the Tribunal at Delhi and by the decision on July 22, 1986, the Tribunal gave the following directions :

. . . the petition is allowed with the direction that the petitioner's pay should be fixed at Rs. 1100 in the scale of Rs. 750-50-1300 along with the Special Pay attached to the post, with effect from the date of his joining the post of Head of Department (Civil Engineering), Central Polytechnic, Chandigarh. The subsequent increments will be paid to him from the dates they fell due. The petitioner will also be entitled to arrears of pay and allowances in the light of the said fixation. It is further directed that the petitioner should be paid joining time pay and travelling allowance from the station of his last posting under the Maharashtra State Government i.e. Nanded to Chandigarh as admissible under the rules. This order will be implemented within two months from the date of its receipt by the Chandigarh Administration.

On the allegation that the directions had not been fully complied with, the appellant moved an application for contempt which was registered as C.C.P. No. 19 of 1986. Appellant's stand was that there had been part compliance of the directions and to the extent the directions were not complied with, contempt has been committed. The Tribunal came to hold that there has been full compliance of the directions and in case the appellant had any other grievance a separate application under Section 19 of the Central Administrative Tribunals Act lay and the proceedings in contempt were not appropriate. It is this decision which is assailed in this appeal by special leave.

3. We have heard the appellant-in-person and Mr. Jitendra Sharma for the respondent at considerable length. Two questions as agreed to by the appellant and learned counsel for the other side fall for consideration - (1) Is the appellant entitled to fitment in the revised scale of pay on the basis that the admissible special pay of Rs. 100 per month had merged into the revised time scale of pay and, therefore, the salary in the new scale should be correspondingly more and (2) Is appellant entitled to two advance increments on the basis that he possesses a post-graduate degree ?

4. Having heard the parties we are of the view that there was a merger of the special pay and, therefore, on the basis of the higher salary the appellant is entitled to claim fitment at a higher rate of pay. Accordingly, his pay from November 1978 would be revised and fixed at Rs. 2000 plus Rs. 100 and with the annual increment it would go on increasing at the rate of Rs. 100 per year. To that extent the appellant was entitled to relief.

5. So far as the other claim is concerned, we do not think the appellant was entitled to two advance increments. The two instances on which he has placed reliance are of such increments having been allowed to a lecturer and a demonstrator. A post-graduate degree not being the prescribed qualification for lecturers and demonstrators, increments are admissible where incumbents possess such higher qualification. For the Head of the Department, post-graduate qualification is prescribed requisite and, therefore, we agree with Mr. Sharma that no advance increment on that ground can be entertained particularly when there is no prescription in any rule entitling the appellant to such advance increments.

6. The increment falling due of the appellant in November 1983 has been stopped by an order made in 1987, and this is based upon some pending disciplinary proceeding. We do not think the increment of 1983 should have been stopped in this way. The appellant has brought to our notice the facts that the relationship of the Principal of the Polytechnic on one side and the appellant on the other has been strained. Mr. Sharma pointed out that references made about the Principal in the documents of the appellant are not proper and respectful. We have suggested to the appellant who argued his matter in court that he must bring about a change in his attitude so that discipline in the institution may be maintained. If the Principal and the Head of the Department behave this way it would indeed be difficult for the institution to run smoothly and maintain the appropriate level and adequate discipline. We commend to the authorities to recall the order of stoppage of the increment due in 1983 but it is open to them to make such directions as may be necessary prospectively depending upon the fate of the disciplinary proceedings.

7. In the facts stated above, it is difficult to hold that any contempt has been committed. We accordingly do not propose to make any direction in the matter of contempt but to solve the dispute and give a final seal to the matter flowing out of the earlier decision of the Tribunal, we direct the respondents to pay the balance dues of the appellant on the basis of higher pay as referred to above within two months hence.

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