

Shivdarshan Lal Vasudeva

Vs

Union of India and Others

Civil Appeals Nos. 6258-59 of 1997 (Arising out of SLPs Nos. 5059-60 of 1995)

(S. C. Agarwal, B. N. Kirpal JJ)

12.09.1997

ORDER

1. Delay condoned.
2. Special leave granted.
3. We have heard the learned counsel for the parties.
4. The appellant was initially employed as Assistant Engineer Class II in the Military Engineering Service (MES). While he was so employed he was drawing the basic pay of Rs. 960 in the grade of Rs. 650-1200 with effect from 1-2-1977. After his selection by the Union Public Service Commission he was appointed on the post of Assistant Engineer in the Chandigarh Administration by order dated 22-3-1977 and he joined the said post on 3-5-1977. Under the said order the appointment was in the scale of Rs. 400-1100 plus allowances sanctioned by the Government for its employees. There was a dispute about the fixation of his basic pay on the date of his joining service in the Chandigarh Administration. The appellant filed a petition (OA No. 562/CH of 1986) before the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as "the Tribunal"). The said petition was disposed of by the Tribunal by the impugned judgment dated 23-8-1991. The Tribunal has directed that the basic pay of the appellant should be fixed at Rs. 940 plus Rs. 20 as personal pay in the scale of Rs. 400-1100. As regards the DA/ADA, the Tribunal has directed that the appellant would draw DA/ADA as admissible on the scale applicable to his old post in the MES till his pay and allowances in the new post in the Chandigarh Administration are revised with effect from 1-1-1978 in accordance with the revised pay rules. The respondents, feeling aggrieved by the said judgment of the Tribunal insofar as it directed the fixation of the basic pay of the appellant at Rs. 960, filed a special leave petition in this Court but the same was dismissed on the ground of delay as well as on merits by order dated 6-4-1992.
5. Feeling aggrieved by the direction given by the Tribunal regarding payment of DA/ADA the appellant filed a review petition before the Tribunal which was dismissed by order dated 8-9-1993. The appellant has filed these appeals against the judgment of the Tribunal dated 23-8-1991 and the order dated 8-9-1993.
6. Shri J. D. Jain, the learned Senior Counsel appearing for the appellant, has urged that since the appellant has been fitted in the pay scale of Rs. 400-600 (sic) applicable in the State of Punjab on the date of his joining the Chandigarh Administration the DA/ADA payable to him on that date should also be fixed in accordance with the DA/ADA sanctioned in the State of Punjab as per the order of appointment. Ms. Kamini Jaiswal, the learned counsel for the respondents, has urged that at

the time when the appellant joined service in the Chandigarh Administration he was in the Central pay scale of Rs. 650-1200 which had been revised with effect from 1-1-1973 and on his appointment in Chandigarh Administration his pay was fixed in the scale of Rs. 400-1100 prevailing in the State of Punjab. The pay scales in the State of Punjab had been revised with effect from 1-2-1968 and since the pay scales in Punjab had been revised from 1-2-1968, the rates of DA/ADA in Punjab were higher than that payable at the Centre and that the appellant who, at the time of his appointment was getting DA/ADA as sanctioned by the Central Government, cannot get the advantage of higher DA/ADA at Punjab rates. We are unable to appreciate this contention.

7. Having regard to the fact that under the order of appointment the appellant was placed in the pay scale of Rs. 400-1100 applicable in the State of Punjab and since the pay scales of Punjab were applicable in the Union Territory of Chandigarh, the appellant was entitled to the DA/ADA at the same rates as were applicable in the State of Punjab on 3-5-1977 when he joined service in the Chandigarh Administration. The DA/ADA payable to him on that date should, therefore, have been fixed at the same rates as prevalent in the State of Punjab as applicable in the Union Territory of Chandigarh. In the circumstances, we are unable to uphold the direction given by the Tribunal that the DA/ADA payable to the appellant shall be on the scale applicable to his old pay in the MES.

8. The appeals are, therefore, allowed. The direction given by the Tribunal regarding payment of DA/ADA on the scale applicable to the old pay in the MES is set aside and it is directed that the appellant would be entitled to DA/ADA as admissible in the Punjab scale on the date of his joining the Chandigarh Administration on 3-5-1977. The basic pay of the appellant in the revised pay scales as applicable from 1-2-1978 should be refixed on that basis. The appellant would be entitled to the consequential benefits accruing to him as a result of such refixation of his basic pay. No order as to costs.