

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL**

-
CONTEMPT CASE No.968 of 2013

Date: 10.03.2016

Between:

B.Anil Kumar and others.

.. Petitioners.

And

Sri T.R. Singhal,
Under Secretary, Government of India,
Ministry of Planning and Programme Implementation,
Department of Statistics,
Sardar Patel Bhavan,
Sarsad Marg,
New Delhi,
and others.

.. Respondents.

Counsel for the petitioners: Mr. S.Ashok Anand Kumar

Counsel for the respondents Mr. K.M.Nataraj, Additional Solicitor
General, for Mr. B.Narayana Reddy,
Assistant Solicitor General.

The Court made the following:

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ORDER: (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Contempt Case is filed by three of the four respondents in W.P.No.7596 of 2003, which was disposed of by a Division Bench of this Court by order dated 12.08.2003.

The material portion of the said judgment reads as under:

“Under those circumstances, we (sic are) hold that the petitioners holding the post of Assistant Superintendents after 1-1-1986 by virtue of promotion are entitled to have the benefit of Rs.75/- special pay in the revised pay scale of Rs.1600-2660. But, however, in the further revised pay scales of V Pay Commission their pay has to be appropriately fixed taking into consideration the special pay of Rs.75/- and its merger in V Pay Commission scales.”

It is the case of the petitioners herein that despite unequivocal directions issued by the Division Bench that in the revised pay scales of V Pay Commission, their pay has to be appropriately fixed taking into consideration the special pay of Rs.75/- and its merger in V Pay Commission scales, the respondents have not merged the special pay of Rs.75/- in their revised pay scale.

A detailed counter affidavit and also an additional affidavit were filed on behalf of the respondents. In paragraphs 4 and 5 of additional affidavit filed by Mr.A.S.N.M.Rao, Deputy Director in National Sample Survey Office, Hyderabad, it is averred as under:

“4) It is submitted that the Hon'ble High Court and Apex Court have directed the following while dealing with the grant of special pay of Rs.75/- to the petitioners.

a) The Hon'ble High Court vide their order 12th August, 2003 said that “.... The Special Pay was attached to the scale. Even when the scale is revised the special pay continues to get attached the revised scales. The only distinction is that pre 1-1-1986 promotees will get their pay fixed in the

revised pay scale of IV Pay Commission while post 1.1.1986 promotees will have special pay separately with their revised pay scales. What is required to be considered is that when they get scale of Rs.1600-2660/- whether they are entitled for special pay. In view of the fact that benefits of special pay granted by virtue of the Award passed by the Board of Arbitration, all persons who were promoted after 1-1-1986 shall continue to have the benefit of Rs.75/- as special pay apart from the revised scale of Rs.1600-2660/-. The special pay of Rs.75/- will count for all purposes as per rules. However, the said special pay will be taken into consideration for fixation in the revised pay scales of V Pay Commission.

...

5) It is submitted that accordingly Rs.75/- special pay per month is granted separately to the existing scale from time to time held by the petitioners i.e. in addition to their basic pay in the applicable scale. And subsequently the special pay of Rs.75/- has been added to their basic pay at appropriate pay revisions. It is humbly submitted that the special pay of Rs.75/- extended to the petitioner No.1 & 2 was merged while granting revised scale of pay of V Central Pay Commission under the proviso of Rule 7 (1) (B) Revised (Pay) Rules, 1997 and special pay of Rs.75/- subsumed in the upgraded scale of pay of Rs.5500-9000/-. It is pertinent to mention here that the Assistant Superintendents (applicants) who were in the pre revised scale of Rs.1600-2660/-, have been granted an upgraded scale of Rs.5500-9000/- by the Vth CPC instead of normal replacement of Rs.5000-8000/- granted to all other Govt. Servants across the Board, taking into account their duties and responsibilities over and above, the normal replacement scale. Therefore, the respondents have complied the directions of Hon'ble Court envisaged in Judgment dated 12.08.2003 in Writ Petition No.7596 of 2003 upheld by Hon'ble Supreme Court vide Judgment dated 11.05.2010 in Civil Appeal No.8273 of 2004."

In support of this affidavit, the respondents have filed order No.A-46011/1/Estt/2015, dated 28.05.2015, of the Ministry of Statistics & Programme Implementation, National Sample Survey Office, Government of India, wherein it is *inter alia* stated that the pay scale of petitioner No.1, who was promoted to the post of Assistant Superintendent after 01.01.1986 i.e. on 31.05.1989 and is presently working as

Superintendent Officer in NSSO (FOD), RO, Hyderabad, is re-fixed in the light of granting of an Arbitration Award amounting to Rs.75/- with effect from 31.05.1989. The details of pay fixation have been mentioned in the tabular column in paragraph 2 of the order, a perusal of which would clearly show that the pay of petitioner No.1 as on 01.01.1996 was shown as Rs.2,000+75 and his revised pay as on 01.01.1996 as per the recommendations of V Pay Commission with effect from the said date is fixed as Rs.5500-175-9000. These figures clearly demonstrate that the special pay of Rs.75/-, which was separately shown as the petitioners' pay upto 01.01.1996, was merged and shown as Rs.2,075/- as on 01.01.1996 and the same was evidently taken into consideration for fixing the revised scale of pay as per V Pay Commission as Rs.5500-175-9000. From this material, we are fully convinced that the respondents have duly complied with the judgment of this Court.

Hence, we do not find any merit in the Contempt Case and the same is accordingly dismissed.

As a sequel to the dismissal of the Contempt Case, C.A.Nos.421 of 2013, 1393 of 2015 and 1437 of 2015 stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

10.03.2016
v v