(2011) 09 DEL CK 0004

In the Delhi High Court

Case No : Writ Petition (C) 1156 of 2011

Pratap Singh APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Central Civil Services (Revised Pay) Rules, 1997 — Rule 10

Citation : (2011) 09 DEL CK 0004

Hon'ble Judges : Sunil Gaur, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Rekha Palli, Punam Singh and Amrita Prakash, for the Appellant; Inderjeet Sindhu, for the Respondent

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—Learned Counsel for the Petitioner urges that of the various grounds urged in the writ petition, arguments are restricted to the grounds with respect to the anomaly which has been highlighted as per para 9(c)(iv) of the writ petition. The anomaly highlighted reads as under:

(iv) If the stand taken by the Respondent No. 6 is held to be correct on its face value, albeit the same does not seem to be correct, then the Petitioner would be losing approximately Rs. 1300/-per month vis-a-vis an officer who was one year junior to him. The Junior Officer who had stagnated at the maximum of his pay scale just for one year and had not earned stagnation increment, will get the benefit of the instructions cited above and be allowed one increment in the new pay scale as on 01.01.2006, raising his salary by about Rs. 1800/-whereas the Petitioner will not get this increment and thus his salary would be lesser to the officer who is one year junior to him. To illustrate this point further it is submitted that for example, if the Petitioner had stagnated only for one year at the maximum of his old pay scale, he would have been allowed one increment on 01.01.2006, as per this rule, raising his gross salary approximately by Rs. 1800/-. Since the Petitioner earned the stagnation increment after having stagnated for 2 years at the maximum of his old pay scale, he got a rise of approximately Rs. 500/but would lose Rs. 1800/-per month as he cannot get the benefit of Rule 10 as per the version of Respondents No. 6 and 1. The Petitioner would, thus, be getting approximately Rs. 1300 lesser vis-?-vis an officer who was one year junior to him. The intention of the Government can never be to cause loss to a senior person who has stagnated at the maximum of his old pay scale for over two years.

2. Relevant facts to be noted are that working as 2-IC under CRPF, which is equivalent to the post of a Commandant in CISF, Petitioner applied to proceed on deputation under CISF as AIG (Legal and Regulation). Being selected, he assumed charge on 29.3.1996.

3. While on deputation, Petitioner earned promotion to the post of Commandant in CRPF in May 1997 which is equivalent to the post of Senior Commandant in CISF. Petitioner was ultimately absorbed in CISF.

4. Placed in the pay-scale Rs. 14300-400-18300, while on deputation, Petitioner reached the maximum in the pay-scale i.e. Rs. 18,300/-with effect from 1.5.2003.

5. Stagnating for 2 years on the same pay-scale and as per policy, Petitioner was granted first stagnation increment on 1.5.2005 and thus from said date started receiving salary (basic) in sum of Rs. 18,700/-.

6. With the implementation of the 6th Central Pay Commission''s recommendations, Petitioner was placed in the pay-band of Rs. 37,400 - Rs. 67,000 + grade-pay Rs. 8,700. Issue of pay-fixation of the Petitioner was pending when he superannuated from service on 30.11.2008 but we note that his salary was fixed at Rs. 43,390/-and then increased by stepping up the same by one scale to Rs. 44,900/-as on 1.1.2006. The department, with reference to Rule 10 of the CCS Revised Pay Rules, implementing the proviso thereto gave the increment in the revised pay-structure to the Petitioner with effect from 1.1.2006.

7. To understand what happened, with effect from 1.5.2005, basic-pay of the Petitioner in the grade-pay Rs. 37,400- Rs. 67,000 which was fixed at Rs. 43,390 came to be increased to Rs. 44,900/-as on 1.1.2006, and needless to state the grade-pay continued to be Rs. 8,700.

8. Petitioner was happy till the Respondent took a unilateral action to withdrawn the increment given with effect from 1.1.2006 envisaged by CCS (Revised Pension) Rules.

9. Rule 10 of the CCS (Revised Pension) Rules read as under:

10. Date of next increment in the revised pay structure - There will be a uniform date of annual increment, viz. 1st July of every year. Employees completing 6 months and above in the revised pay structure as on 1st of July will be eligible to be granted the increment. The first increment after fixation of pay on 1.1.2006 in

the revised pay structure will be granted on 1.7.2006 for those employees for whom the date of next increment was between 1st July, 2006 to 1st January, 2007.

Provided that in the case of persons who had been drawing maximum of the existing scale for more than a year as on the 1st day of January, 2006, the next increment in the revised pay structure shall be allowed on the 1st day of January, 2006. Thereafter, the provision of Rule 10 would apply.

Provided that in cases where an employee reaches the maximum of his pay band, shall be placed in the next higher pay band after one year of reaching such a maximum. At the time of placement in the higher pay band, benefit of one increment will be provided. Thereafter, he will continue to move in the higher pay band till his pay in the pay band reaches the maximum of PB-4, after which no further increments will be granted.

10. Of the various contentions urged, one which is pressed into service is as noted herein above and simply put, what the Petitioner says is that if he is entitled to one stagnation increment and not two he must be granted the one in terms of the CCS (Revised Pension) Rules and for which he highlights the effect of the illustration given by him which shows that a person who had stagnated only for one year would have been allowed one increment benefit as on 1.1.2006 on the scale as per the revised pay band.

11. The illustration given by the Petitioner brings out that a person who stagnates for only one year would get a better salary and hence a better pension with effect from 1.1.2006 i.e. highlights the anomaly where one step up is given prior to 1.1.2006 and where one step up is given with effect from 1.1.2006.

12. Thus, we declare that the Petitioner who would be entitled to one step up increment would be accorded the benefit with respect to the increment payable in the pay-band Rs. 37,400 - Rs. 67,000 and not the pre-revised pay-scale.

13. On the issue of effecting recoveries against the Petitioner we would highlight that what ever benefits were received by the Petitioner were not due to the Petitioner making any misrepresentation or playing a fraud. It was a bona-fide error committed by the Respondents.

14. Noting that the Petitioner spent the money which was given to him thinking that he was rightfully entitled thereto and the fact that the Petitioner has since superannuated, we bring the curtains down by prohibiting any recoveries to be effected from the pension being paid to the Petitioner and direct that future pension would be paid by withdrawing the one step up increment granted to the Petitioner on 1.5.2005 and instead, one step up increment would be granted with effect from 1.1.2006 as per pay-band Rs. 37,400 - Rs. 67,000 in terms of the proviso to Rule 10 of the CCS (Revised Pension) Rules.

15. No costs.

