

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 1251/2002

Date of Decision 10.3.2003

S.P. Nagal and ors. ... Applicants

Shri Deepak Verma ... Advocate for the Applicant

VERSUS

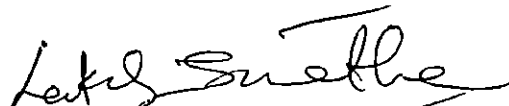
UOI and ors. ... Respondents

Ms. Promila Safaya Advocates for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K. Rajotia, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

O.A. No.1251/2002

(12)

New Delhi this the 10th day of March, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

Hon'ble Shri V.K. Majotra, Member (A)

1. S.P. Nagpal S/o Shyam Sunder
r/o G-2307 Netaji Nagar, New Delhi.
2. R.K. Vadhera S/o P.L. Vadera (Late)
r/o D-501 Sarojini Nagar, New Delhi.
3. Mrs. P.K. Khosla, W/o V.M.S. Khosla
r/o Sec.34/161 Hingiri Apts, Noida
4. Mrs. Asha Sethi W/o N.K. Sethi
r/o 678 Parmanand Colony,
W. Mukherjee Nagar, New Delhi.
5. Mrs. Versha Sahani W/o S.L. Sahani
r/o 2158-A Guru Arjun Nagar, New Delhi.
6. Mrs. Janak Chadha W/o P.N. Chadha
r/o New 4 Storey, 27 Vishal Encl. New Delhi.
7. Mrs. Raman Kanta W/o K.L. Wasan
E-41 Kotla Ferozesah, New Delhi.
5. Mrs. S. Kashyap W/o Ashok Kashyap
r/o A/25 Kesho Ram Park,
Bindapur, New Delhi.

-Applicants

(By Advocate: Shri Deepak Verma)

Versus

Union of India through

1. The Secretary,
Dept. of Statistics,
Ministry of Planning & P.I.,
Sardar Patel Bhawan, Sansad Marg,
New Delhi.
2. The Secretary,
Dept. of Expenditure,
Ministry of Finance, North Block
New Delhi.
3. The Executive Director/DDG
Computer Centre,
Dept. of Statistics,
East Block 10, R.K. Puram,
New Delhi.

-Respondents

(By Advocate: Ms. Promila Safaya)

ORDER (Oral)

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Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)

This is the third round of litigation by the applicants who are, 8 in number, impugning the order issued by the respondents dated 30.1.2002. The relevant portion of this order reads as follows:-

"With reference to direction of Hon'ble CAT in OA No.2486/2001, MA No. 2080/2001, filed by Shri R.K. Vadhera & Others, it is to inform the applicants that they had earlier filed a case (OA NO. 2449/98) in the Hon'ble CAT for re-fixation of their pay with effect from 1.1.1986 instead of 11.9.1989. The Hon'ble CAT directed to the respondents to fix the pay of applicants with effect from 1.1.1986 without any consequential monetary benefits and any arrears in their order dated 20.01.2000 in OA No.2449/98. The directions of Hon'ble CAT have been fully implemented by this Ministry".

2. The above order has been issued in pursuance of Tribunal's directions to dispose of the suit notice issued by the learned counsel for the applicants on their behalf dated 24.11.2000. In this representation/suit notice, the applicants have pointed out the anomalous situation which had arisen with respect to their claims which have been dealt by the Department OM dated 11.9.99. No doubt, their earlier application (OA 2449/98) has been disposed of by Tribunal's order dated 21.1.2000. The operative portion of the Tribunal's earlier order dated 21.1.2000 is as follows:-

"In the circumstances we hold that the OA is not barred by limitation and the applicants are entitled for proper fixation of pay w.e.f. 1.1.86 till 11.9.89. The applicants are, however, not entitled to consequential monetary benefits or any arrears".

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3. It is not disputed by the respondents that in pursuance of subsequent orders issued by the Tribunal including the Full Bench order in OA No.2639/99 decided on 31.7.2000, the benefit of the aforesaid O.M. dated 11.9.1989 has been granted to the applicants therein w.e.f. 1.1.1986. The main grievance of the applicants is that excepting the 8 applicants who have been mentioned in the aforesaid suit notice dated 24.11.2000 which was to be considered and dealt with by a speaking order by the respondents, everyone else in that cadre, i.e., cadre of DEO, Group-C has been given the consequential benefits under the OM w.e.f. 1.1.1986. It is also relevant to note that in Tribunal's order dated 20.9.2001 in OA No.2486/2001 filed by the same 8 applicants, their contention has been noted that several applicants who were similarly placed as the applicants herein have been granted the consequential benefits w.e.f. 1.1.1986 with arrears. It is in this connection that the representation/suit notice had been issued by the learned counsel for the applicants on 24.11.2000 requesting the respondents to allow consequential monetary benefits to the 8 applicants who had been allowed re-fixation w.e.f. 1.1.1986 on notional basis.

4. A mere perusal of the impugned order dated 30.1.2002 shows that not only it is not a reasoned and speaking order but merely recounts the fact which was already known to the parties, including the applicants, that the earlier order passed in OA No.2449/98 has already been implemented. If so, no further order need be passed excepting that the Tribunal had directed vide

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order dated 20.9.2001 in OA No.2486/2001, noting the submissions made by the learned counsel for the applicants to deal with the matter by passing a suitable order.

5. Learned counsel for applicants has relied on the seniority list of DEO Grade 'A' as on 1.1.1993. He has contended, which contention has also been referred in the aforesaid notice issued by him on behalf of the applicants, that persons who are junior in the grade of DEO Grade 'C' but who were applicants in OA No.1763/99 had received cosequential monetary benefits of fixation of pay w.e.f. 1.1.1986, which has been denied to only the 8 applicants. Why these points have not been dealt with by the respondents, particularly when according to the applicants, even their juniors have received such benefits, has not at all been explained satisfactorily by the respondents. The applicants have not denied the fact that the earlier order passed in the application filed by them (OA No.2449/98) has not been implemented. That is not the issue in the present case. The crux of the matter is whether the respondents can as Model Employers, in the particular facts and circumstances of the case, deny to the applicants what has been given to all other persons in the same cadre, i.e., both juniors and seniors: in implementation of the Tribunal's orders? However, we must also record that the applicants themselves had not taken remedial action at the relevant time.

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6. Shri Deepak Verma, learned counsel relies on a number of judgments (list placed on record) and in particular the judgments of the Bombay High Court in Pandurang Sakharan Vs. The Maharashtra Revenue Tribunal Nagpur & Ors., AIR 1974 Bombay 20 and the Hon'ble Supreme Court in Nand Kishore Vs. State of Punjab 1996 SCC (L&S) 57. There is no denying the fact that after the aforesaid judgment of the Tribunal in OA No.2449/98 had been delivered, the Full Bench of the Tribunal in Babu Lal and others (OA No.2639/99) had laid down the law regarding interpretation of respondents' OM dated 11.9.1989 granting the benefits to the applicants w.e.f. 1.1.1986. This order of the Full Bench of the Tribunal has been upheld by the Hon'ble Delhi High Court vide order in CWP No.3613/2000 dated 31.12.2001. He has also pointed out that another case on similar grounds has been upheld by the Delhi High Court in CWP No.3118/2002 dated 31.7.2002. Respondents have apparently implemented these orders of the Tribunal and the Hon'ble High Court which are no doubt subsequent to the order of the Tribunal in the instant case filed by the applicants in 1998 (OA 2449/98).

7. We are informed by learned counsel for parties during the hearing that out of the cadre strength of DEO Grade 'C' on the relevant date, out of 24 persons, 16 persons have already received all the monetary benefits w.e.f. 1.1.1986, including arrears excepting the 8 persons who had filed OA-2449/98. In the peculiar facts and circumstances of the case and especially after the Tribunal had by order dated

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20.9.2 001 in OA 2486/2001 given a direction to the respondents to pass suitable orders on the aforesaid notice given by the applicants dated 24.11.2000, we consider that the respondents ought to have, as a Model employer treated the present applicants similarly as applicants in OA-1763/99. Such an approach would be in public interest, balance of convenience of the parties and would have also avoided multiplicity of litigation such as the present application, which is, more or less a repeat application. We, however, hasten to add that taking into account the peculiar facts and circumstances of the case, including the fact that only a few persons out of the cadre have not benefitted from the aforesaid judicial orders, perhaps because they had hurried in filing their application before the Full Bench order of the Tribunal dated 31.7.2002 in OA-2639/99, the respondents should not as such, have denied to them the similar benefits which have been given to other persons in their own cadre, many of whom are junior to them.

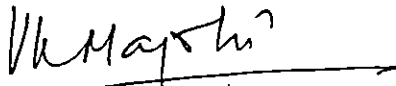
8. In the totality of the facts and circumstances of the case and having regard to the aforesaid orders of the Tribunal which have been relied upon by both the parties, we consider that it would be appropriate to direct the respondents to treat the applicants at par with other similarly situated DEOs Grade "C", so far as giving them the consequential monetary benefits arising out of the re-fixation of pay w.e.f. 1.1.86 as ordered by the Full Bench of the

B/-

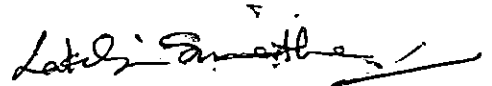
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Tribunal in Babu Lal's case (supra) in the order dated 31.7.2000.

The above necessary action shall be taken within three months from the date of receipt of a copy of this order. No order as to costs.



(V. K. Majotra)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.