

Central Administrative Tribunal
Principal Bench

O.A. 318/1998

New Delhi this the 7 th day of February, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J).
Hon'ble Shri Govindan S. Tampi, Member(A).

Sh. M.L. Singhal,
SO/F (Retired),
Atomic Minerals Division,
Department of Atomic Energy,
R/o 172, Sector-3, R.K. Puram,
New Delhi-110 022.

... Applicant.

(Applicant in person)

Versus

1. Union of India, through
The Secretary,
Government of India,
Department of Atomic Energy,
New Delhi.

2. The Director,
Atomic Minerals Division,
Department of Atomic Energy,
1-10-153-156, Begumpet,
Hyderabad-500 016.

3. Chief Administrative and Accounts
Officer, Department of Atomic Energy,
Atomic Minerals Division,
AMD Complex, Begumpet,
Hyderabad-500 016.

4. Administrative Officer-II,
Department of Atomic Energy,
Atomic Minerals Division
and Complex, Begumpet,
Hyderabad-500 016

... Respondents.

(By Advocate Shri Madhav Panikar)

O R D E R

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

The applicant has impugned the orders passed by
the respondents dated 3.4.1998 and 13.7.1998 rejecting
his representations given earlier for fixation of his pay
on crossing of Efficiency Bar (E.B.) which he claims
ought to have been fixed under FR 31(2).

18

2. In the relief prayed for by the applicant, he has sought a direction to the respondents to refix his pay at Rs.940/- as on 1.8.1976 with increments thereafter with a further direction to the respondents to refix the pay in the revised pay scales, with interest @ 18% per annum on the arrears and terminal benefits.

3. The applicant has stated that vide letter dated 31.1.1977 he was informed that E.B. was imposed on him with retrospective effect from 1.2.1976. Again he has stated that he was informed by the respondents that he was not found suitable to cross E.B. in 1977 but has not given the date of this letter in Paragraph 4.5 of the O.A. He has further stated that there was no intimation as to why the applicant was not allowed to cross E.B. in the year 1978. Finally, he was allowed to cross E.B. w.e.f. 1.2.1979. The applicant's main contention was that after lifting of E.B. in February, 1979, the respondents ought to have fixed his pay in accordance with the provisions of FR 31(2) which has not been done. The applicant has retired from service in 1998. The applicant has submitted that because of his illness and other pre-occupations in life, he was not able to file the present application earlier to seek remedy of fixation of his pay under FR 31(2) which provision itself has been omitted vide Govt. of India, Department of Personnel & Training Notification dated 30.8.1989.

4. The respondents have taken preliminary objections, namely, that not only the application is hopelessly barred by limitation, as prescribed under

Section 21 of the Administrative Tribunals Act, 1985, (hereinafter referred to as 'the Act') but the reliefs prayed for relate to the period from 1.2.1976 when the applicant's increment was stopped at the E.B. stage and 1.2.1979 when it was allowed and his pay was fixed at the next stage which is also beyond the jurisdiction of the Tribunal under Section 21(2) of the Act. Even on the merits of the case, the respondents have submitted that the applicant cannot claim the increments for the period during which he was held up at the E.B. stage. They have relied on the judgement of the Punjab and Haryana High Court in Shiv Ram Vs. Union of India & Ors. (1999(1) SLR 361) (Annexure R-4).

5. We have heard the applicant and Shri Madhav Panikar, learned counsel for the respondents and perused the records.

6. The relevant portion of the impugned order dated 3.4.1998 reads as follows:

"In this connection it is intimated that as provisions of FR-22 the stepping up of the Sr. Officer is permissible in the following circumstances:

1. When both the junior and the senior govt. servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.
2. The pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical.
3. The senior officer should be drawing equal or more pay in the lower post than his junior.

It is observed from the statement furnished by Shri Singhal that he was drawing less pay in the grade of SO/SC than S/Shri P.D. Bajaj & G. Sen

y8.

Gupta in the grade of SO/SB. As he does not satisfy the first condition, there is no anomaly in pay fixation in respect of Shri Singhal".

The relevant portion of the impugned order dated 13.7.1998 reads as follows:

"Shri Singhal may please note that as his initial pay on promotion to SO/SC grade was fixed under FR 22(C), applicability of FR 31(2) does not arise. Shri Singhal may also note that his contention that FR 22(c) is not applicable as his pre-revised scale had no EB stage is not correct, as the revised scale has an EB stage and, therefore, it amounts to change of scale. Shri Singhal may please note that fixation of pay under Revised Pay Rules, 1973 is not related to fixation of pay under FR 22(c) or 31(2) and the fixation of pay on date of promotion either in revised or pre-revised scale is the criteria to look for an anomaly or otherwise. Hence his pay was fixed on the actual revised pay and would not be eligible for stepping up of pay".

7. From the facts mentioned above and having regard to the nature of the reliefs prayed for by the applicant, it is clear that having regard to the provisions of Section 21(2) of the Act, this Tribunal does not have jurisdiction in the matter to direct the respondents to re-fix the pay of the applicant w.e.f. 1.8.1976. It is also clear that the applicant himself has stated that he made repeated representations which cannot have the effect of extending the cause of action or the period of limitation. The applicant had tried to explain the inordinate delay and laches on his part in filing this application of his inability because of family circumstances which can hardly be considered sufficient in the circumstances of the case to condone the delay of about 25 years. The judgement of the Punjab and Haryana High Court in Shiv Ram's case (supra) is also

13/

applicable to the facts in the present case which makes it clear that the applicant does not have any case even on merits.

8. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.

(Govindan S. Tampi)
Member (A)

'SRD'

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