Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1566/99
OA No. 826/99

New Delhi this the 8th day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

OA-1566/99

H.L. Gugnani
S/o Late Shri Mela Ram,
R/o AI/71, Safdarjung Enclave,
New Delhi-110029

....Applicant

(Applicant in person)

Versus

1. Union of India through its Secretary,
Govt. of India, Ministry of Personnel,
Public Grievances and Pensions,
(Department of Personnel & Training),
New Delhi.

2. State of Haryan
through the Chief Secretary to Govt.
of Haryana, Chandigarh.

...Respondents

(By Advocate: Shri Jasbir Malik)

OA No. 826/99

A.C. Aggarwal,
S/o Late Shri N.R. Aggarwal,
R/o H.No. 144, Madhuvan,
Delhi-110 092.

...Applicant

(Applicant in person)

Versus

1. Union of India through its Secretary,
Govt. of India, Ministry of Personnel,
Public Grievances and Pensions,
(Department of Personnel & Training),
New Delhi.

2. State of Haryana
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...Respondents

(By Advocate: Shri Jasbir Malik)

ORDER (Oral)

By Reddy, J.-

The two OAs can be disposed of by a common order.

2. The applicants are IAS officers allotted to the cadre of Haryana. While in service the applicants obtained the degree of LLB. The applicants rely upon the Circulars issued by the Haryana Government on 20.6.77 and 23.10.78. Under these circulars the applicants are entitled for grant of personal pay of two increments from 23.10.78. The applicants have been making representations to the State Government from 1981 onwards for the grant of the increments. It is also the case of the applicants that in CWP No. 3265/1981 the High Court of Punjab and Haryana, by judgment dated 16.9.1981, allowed the claim of Mr. P.C. Wadhawa, an IPS officer who also sought the benefits under the above Circulars for grant of two increments. The applicant in OA-826/99 made a representation in 1981 whereas the applicant in the other OA-1566/99 has made several representations and reminders from 1981 onwards.

3. It is the case of the applicants that the respondents had been consistantly stating that the case of the applicants was under consideration of the authorities concerned. The immediate cause for filing both the matters was the order dated 25.5.98 whereby the applicant's representation dated 20.3.98 for grant of increments has been rejected.

4. The case of the applicants is that they are entitled for the benefits of the two increments under the above circulars.

5. Respondents have taken a preliminary objection as to limitation. It is their case that the OAs are barred by limitation as the cause of action arose in 1978 and that the repeated representations/reminders would not prolong the period of limitation. It is the contention of the applicants, who appeared in person, and put forth their case ably and with clarity, that they could not rush to the court, as the respondents were stating that the matter was under consideration by the Government and that an idential matter was pending before the Supreme Court, filed by the Government and that ultimately when their later representation was rejected in 1998 the OA was filed within the period of limitation from that date.

6. We will first dispose of the plea of limitation. The facts are not in dispute. Applicants' grievance arose on the date when the Circulars have been issued in 1977 and 1978 under which they are claiming the incentives of two increments. Subsequently in September 1981 the High Court of Punjab and Haryana has allowed the claim of another officer who is similarly placed. The applicants were making representations from 1981. It is seen that the respondents were stating every year that the matter was under consideration. They have

not rejected the representations. Subsequently, every year they were stating that the policy involved in the case was pending decision by the Supreme Court in the appeal filed by the State Government in State of Haryana Vs. Dr. A.K. Sinha Civil Appeal No. 11411 of 1983 and that the Hon'ble Supreme Court has also granted the stay in favour of the State Government and final decision in the case of the applicant would be taken after the decision of the Supreme Court in the matter was taken. Ultimately the Supreme Court disposed of the matter in its judgment dated 28.2.97. It is stated by the applicants that there after they made a representation to the respondents on 28.3.98 and having received the reply on 25.5.98, they filed the present OA.

7. We are, therefore, of the view that in the circumstances of the case as the respondents have been stating that the matter was under consideration and that the case was pending decision in the Supreme Court, the applicants cannot be expected to rush to the court. We are not shown any communication when their representations were rejected. This is also not a case where there was no response to the respondents. As positive response was being given stating that the matter was under active consideration of the Government. In such circumstances, we are not prepared to hold that the applicants should have approached the court. Thus it cannot be said that OAs are barred by limitation. The contention in this regard is rejected.

8. Coming to the merits of the case, we are of the view that the matter is squarely covered by the judgment of the Supreme Court in the case of Dr. A.K. Sinha (supra). The Supreme Court has clearly stated that the applicants IAS officers, are not entitled to the incentives provided by the State Government as the incentives are provided to the State Government employees governed by the State Services. Hence IAS officers are not eligible for the incentives. The applicants, however, relying upon the judgment in **P.C. Wadhawa Vs. State of Haryana** AIR 1981 SC 1540, submit that the view taken by the Supreme Court is contrary to the decision taken by the three Judges Bench of the Supreme Court in P. C. Wadhawa's case. We are not competent to consider this aspect of the matter to review the Judgment of the Supreme Court on the ground stated by the applicants or by any other ground we are bound by the above judgment of the Hon'ble Supreme Court, being the latest on the point. It is open to the applicants to raise this point before the appropriate forum.

9. OAs are, therefore, dismissed. No costs.

(Mrs. Shanta Shastry)
Member (A)

(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.