

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 495/98

New Delhi this the 6th Day of March 1998

Hon'ble Shri Justice K.M. Agarwal, Chairman
Hon'ble Shri R.K. Ahooja, Member (A)

Devinder Mohan,
Son of Late Shri Bakshi Ram,
B-164 Sector XV,
NOIDA (UP).

Petitioner

(By Advocate: Shri Surinder Singh)

-Versus-

1. Special Secretary and Director General,
National Informatics Centre,
Planning Commission,
A-Block, CGO Complex,
Lodhi Estate,
New Delhi.
 2. Secretary,
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi
- Respondents

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant joined the service of National Informatics Centre (hereinafter referred to as "NIC") in April 1980 as Computer Operator Grade II in the pay scale of Rs. 425-700. In 1983 he was promoted as Computer Operator Grade I in the pay scale of Rs. 550-900. In October 1986, he got further promotion as Scientific Officer Grade SB in the pay scale of Rs. 2000-3500. The pay scale of Rs. 2000-3500 was revised to Rs. 2375-75-3200-EB-100-3500 by order Annexure A-1 dated 3.9.1990. The applicant says that the Government had set up a Committee known as 'Seshagiri Committee' in November, 1986 on the recommendation of the Fourth Pay Commission, made in para 11.45, for the purpose of reorganisation and rationalisation of Electronics Data Processing (EDP) posts and their pay scales. The

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recommendation of the 'Seshagiri Committee' were accepted and by an OM dated 11.9.1989, Annexure A-5, the new pay scale was approved with the stipulation that the revised pay scale will be operative from the date of issue of notification by the concerned Ministry/Department. This led to the impugned order, Annexure A-1, by the Planning Commission under which the NIC functions. The applicant submits that almost all the departments except Respondent No. 1 i.e., National Informatics Centre made the revised pay scale effective from 11.9.1989 but in the case of applicant's department it was enforced from the date of issue i.e., 1.9.1990. The applicant says that the Tribunal has since then in its order in OA No. 665/96 dated 14.8.1996 and in OA 995/97 dated 9.1.1998 made the revised pay scale effective for the applicants therein from 1.1.1986 instead of 11.9.1989. He says that he made representations for similar orders to the respondents but to no avail. He has now sought a direction to the respondents to grant him the revised pay scale from 1.1.1986 instead of 1.9.1990 on the strength of the Tribunal's orders in the aforesaid mentioned OAs.

2. We have heard the counsel on admission. The applicant impugnes an order which was issued way back on 3.9.1990. The said order is now being assailed after more than 7 years and is thus in our view barred by limitation. The learned counsel for the applicant has relied on the order of Hon'ble Supreme Court in K.C. Sharma & Others Vs. Union of India AISLJ 1998(1) SC 54 to show that when similar benefits are sought on the basis of Tribunal's judgement, the delay may be condoned.

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We find, however, that in K.C. Sharma (Supra), the Full Bench of the Tribunal had given its judgement on December 16, 1993 and the appellant filed an OA for similar relief in April 1994. In the present case the applicant did not come before the Tribunal even though the order revising the effective date from 11.9.1989 to 1.1.1986 was passed in OA No. 665/96. on 14.8.1996. More importantly, the applicant never contested the impugned order of 3.9.1990 even to the extent that it should be made effective from 11.9.1989 instead of 1.9.1990. Thus, the applicant was already in a different category altogether and not similarly placed as the applicants in the OA NO. 665/96 and OA No. 955/97. The applicant not having sought such a modification for so long cannot at this late stage seek parity with those who got the benefit of the aforesaid mentioned OAs. We also find that the applicants in the aforesaid OAs belong to a different department than that of the present applicant. Thus, there being different departments and different ~~the~~ effective dates, the applicant cannot seek to overcome the bar of limitation by referring to a recommendation of the Fourth Pay Commission that Electronics Data Processing staff may be similarly placed in all the departments.

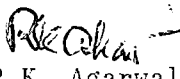
3. We also note that the Hon'ble Supreme Court in the case of Administrator, Daman & Dau Vs. R.D. Valand 1995(4) SCC 593 observed that the Tribunal was not justified in putting the clock back 15 years and brushing aside the question of limitation on the ground that the applicant had been making frequent representations. In the State of Karnataka Vs. S.M. Kotrayya 1996(6) SCC 267 it was observed by the Apex Court that filing of a

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case immediately after coming to know that similar relief had been granted by the Tribunal is not a proper explanation for delay; explanation must relate to availing of remedy within the limitation period. In the present case, there is no explanation on the part of the applicant as to why he was delayed in approaching this Tribunal for the last seven and a half year being fully aware that in other departments the pay revision order had been given retrospectivity from 11.9.1989. Merely because this retrospectivity in respect of some of those departments has now been further extended from 11.9.1989 to 1.1.1986 cannot be treated as a fresh cause of action. (6)

4. In the light of the above discussions, the OA is dismissed at the very threshold as being barred by limitation.


(K.M. Agarwal)
Chairman


(R.K. Agarwal)
Member(A)

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