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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2152/95

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T.A.No.

DATE OF DECISION 8-1-99

Sh.A.A.Patel & Ors

....Petitioner

Sh.M.L.Chawla

....Advocate for the
Petitioner(s)

VERSUS

Registrar Genl.of India andRespondent
ors.

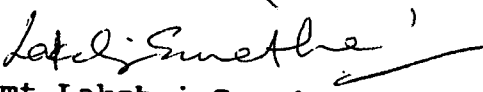
Sh.K.C.D. Gangwani

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)
The Hon'ble Shri N.Sahu, 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)
Member(J)

(17)

Central Administrative Tribunal
Principal Bench

O.A. 2152/95

New Delhi this the 8th day of January, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri N. Sahu, Member(A).

1. Mr. A.A. Patel,
R/o 268, Pragati Apartments,
Punjabi Bagh Club Road,
Paschim Vihar,
New Delhi.
2. Mr. R.K. Mehta,
R/o 2/87, Sadiq Nagar,
New Delhi.
3. Mr. V.K. Jain,
R/o DB/45C, DDA Flats,
Hari Nagar,
New Delhi.
4. Shri J.P. Joshi,
Sector II/101, Sadiq Nagar,
New Delhi. ... Applicants.

By Advocate Shri M.L. Chawla.

Versus

1. Registrar General of India
Ministry of Home Affairs,
Government of India,
2-A, Mansingh Road,
New Delhi.
2. Union of India through the
Secretary, Ministry of Home
Affairs, Govt. of India,
New Delhi. ... Respondents.

By Advocate Shri K.C.D. Gangwani, Sr. Counsel.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants are aggrieved by the action of the respondents in not implementing the recommendations of the 3rd Pay Commission for upgrading the post of Senior Technical Assistant (STA) and equating this post with Investigator (Social Studies (SS)). The applicants have filed ^{Rs 12} the amended O.A. in which they have stated that they were all appointed initially as Junior Investigators on different dates between 1968 and 1971 and

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(18)

were promoted as STAs. They have also submitted that three of them have been promoted to the post of Investigators w.e.f. 29.5.1985 and the 4th on 19.9.1986.

2. The brief facts of the case are that according to the applicants, the 3rd Pay Commission had recommended redesignation of all the STAs as Investigators (SS) w.e.f. 1.1.1973. They have submitted that the 3rd Pay Commission had taken into consideration the recruitment qualifications, functional responsibilities and the nature of duties and had recommended clubbing of the two different cadres into one, with a common pay scale of Rs.550-900 with classification as Group B posts. Their grievance is that the respondents have failed to effect necessary amendment in the Recruitment Rules, whereas the 3rd Pay Commission had already merged the posts of STAs and Investigators and had recommended a common pay scale. Under the relevant Recruitment Rules of 1967, STAs with 3 years service in the grade were eligible for consideration for promotion to the posts of Investigators (SS). The 3rd Central Pay Commission, had recommended that the posts of STAs in different organisations in the pay scale of Rs.325-575 would be upgraded. The applicants have submitted that in spite of the 3rd Pay Commission's recommendations, the respondents had treated the STA as Group C till they were promoted to the post of Investigator which is a Group B post. Shri M.L. Chawla, learned counsel for the applicants, has submitted that there is no question of limitation in this case because the respondents have issued the order dated 15.9.1992 modifying the earlier order dated 30.7.1985 advancing the date of appointment by promotion of the Investigators (SS) from 29.5.1985 to 11.5.1985. He relies on the judgement of the Supreme Court in **Ganesh Dass and Ors. Vs. Registrar General and Others** (Annexure A-3) dated 14.11.1991. The applicants have

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submitted that after implementation of the 3rd Pay Commission, the posts of STA were merged with that of Investigator and all the applicants should be promoted to that post in Group B non-gazetted. The learned counsel has, therefore, submitted that the impugned order dated 15.9.1992 may be quashed and set aside as it does not assign proper seniority to the applicants and they should be assigned proper seniority from the date of their initial appointment and actual promotion to the post of STA, redesignated as Investigator, and ~~be~~^{be} granted other consequential benefits.

3. The respondents in their reply have controverted the above facts. Shri K.C.D. Gangwani, learned Sr. counsel, has taken a preliminary objection that the O.A. is barred by limitation and jurisdiction. He has submitted that the order challenged in this case was issued on 15.9.1992 and this O.A. had been filed on 24.8.1995. Learned counsel has also submitted that what the applicants want is their seniority based on their redesignation in accordance with the recommendations of the 3rd Pay Commission of 1973, with retrospective effect from 1976 to 1979, which they cannot do ^{before the Tribunal, B.} having regard to the provisions of Section 21 of the Administrative Tribunals Act, 1985. He has submitted that the judgement of the Supreme Court dated 14.11.1991 relied upon by the applicants will also not assist them to overcome ^{bar of B.} the limitation. On merits, learned counsel for the respondents has submitted that the 3rd Pay Commission had only recommended identical pay scales for both the posts of STA and Investigator as a part of rationalisation of the pay scales. He has submitted that the post of STA was a Group 'C' post while that of Investigator was a Group 'B' post. The respondents have also submitted that the post of STA had been subsequently abolished and equal number of Group 'B' posts of Investigator

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created, but the STA cannot be automatically promoted in the grade of Investigator (SS) as they have to be assessed on suitability by the DPC. In the circumstances, they have prayed that the application may be dismissed as being barred by jurisdiction, limitation and on merits.


4. We have seen the rejoinder filed by the applicants in which they have reiterated their averments in the O.A. They contend that the STAs had been equated with Investigators (SS) from the date of their appointment on promotion, in accordance with the 3rd Pay Commission's recommendations. Shri M.L. Chawla, learned counsel, has also referred to the order dated 27.1.1976 in which the applicants have been promoted to the posts of Investigator and STA.


5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. The 3rd Pay Commission had recommended that the posts in the scale of Rs.325-575 i.e. STAs in different organisations should be considered for upgradation. Whatever the respondents have done in pursuance of the recommendations have been given effect to, namely, higher pay scales to the STAs and Investigators as a part of rationalisation of the pay scales and given the pay scale of Rs.550-900. However, the post of STA is a Group 'C' post and Investigator is a Group 'B' post and the contention of the learned counsel for the applicants that they have to be treated ^{equal to} from the date of their promotion as Investigators, when they got the higher pay scale, is not tenable. Apart from the merits, having regard to the provisions of Section 21 (2) of the Administrative Tribunals Act, 1985 this application is liable to be dismissed both on the grounds of limitation and

jurisdiction, as what the applicants are seeking in this O.A. is to treat them in the higher post from the date of their initial appointment as STA, which has been redesignated as Investigator. Admittedly, therefore, the cause of action has arisen much earlier to the three years preceding the establishment of the Tribunal w.e.f. 1.11.1985 and is barred by limitation and jurisdiction.

7. For the reasons given above, we find no merit in this application and it also suffers from laches and delay. Accordingly, O.A. is dismissed. No order as to costs.


(N. Sahu)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'