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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.905/95
M.A.No.1096/95

New Delhi this the 21st Day of July, 1995.

Hon'ble Shri B.K. Singh, Member(A)

Sh. Rajesh Kumar Mehta,
S/o Sh. K.K. Mehta,
R/o House No.24, Sector-4,
Urban Estate, Gurgaon.

Applicant

(Applicant in person)

versus

1. Govt. of N.C.T. of Delhi,
through Secretary, Health
Department, Alipur Road, Delhi.

2. Chief Medical Officer(WZ),
Directorate of Health Services,
Govt. of N.C.T. of Delhi.

Respondents

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

This application contains a prayer for issue of a direction to respondents to make the payment of arrears accrued to the applicant on account of refixation of pay as a result of the 4th Pay Commission. A cursory glance of the pay fixation done by the respondents will show that the first order is at Annexure A/1 dated 1.1.1987 and the name of the applicant in this pay fixation finds mention at Serial No.38. The second pay fixation is placed at Annexure A/2, the name of the applicant finds a place at Sl. No.7 above Shri R.P. Arora and his pay has been fixed in the scale of Rs.1350-2200 at Rs.1350/- with effect from 1.10.1986. The applicant filed a representation and the reply to that representation is at Annexure A/3 where the respondents have stated on 29.1.1992 that his pay has been fixed as a Pharmacist and the arrears from May, 1987 to September, 1987 have been paid to him. It

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is true that the applicant gave a legal notice on 12.10.1993 and the reply to that legal notice was given to the applicant on 9.11.1993. As a matter of fact the applicant should have approached the Tribunal when the respondents had informed him that his pay had been correctly fixed and that he had been paid the arrears from May, 1987 to September, 1987. The cause of action arose when the first pay fixation was made on 1.1.1987 or utmost from 2.3.1988 when his pay was fixed at Rs.1350/- in the scale of Rs.1350-2200/-. He could have filed a representation to the respondents if he had any grievance to that pay fixation dated 2.3.1988. He chose not to do so. A legal notice just to bring this issue under the parameters of limitation cannot be allowed to be entertained. The Hon'ble Supreme Court in a catena of judgements have laid down that this Tribunal is not vested with unlimited powers for condonation of delay. It is true that the applicant filed a legal notice but these and other representations filed before that legal notice cannot bring this O.A. within the four corners of Sections 20 and 21 of the Central Administrative Tribunals Act, 1985. It has been laid down in case of State of Punjab Vs. Gurdev Singh reported in 1991(4) SCC P.1 that an aggrieved party must approach the court for relief that the order against him is inoperative and not binding upon him within the prescribed period of limitation. Since after the expiry of the statutory time, the court cannot give the declaration sought for. Central Administrative Tribunals Act, 1985 is a self contained Act which prescribes the period of limitation under Section 20 of the Administrative Tribunals Act which is

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one year and if a representation has been preferred then it would be 1 1/2 years and not beyond that. In case of S.S. Rathore Vs. State of M.P. reported in AIR 1990 SC 10, the Hon'ble Supreme Court has held the view that repeated unsuccessful representations not provided by law do not enlarge the period of limitation. These are also not provided under Sections 20 & 21 of the Administrative Tribunals Act, 1985. Thus on ground of limitation alone the application is liable to be dismissed.


It seems that the applicant is claiming a higher pay scale since there are two groups of Pharmacists and he wants equal pay for equal work when this has already been disallowed by the Hon'ble Supreme Court in case of Shyam Babu Verma & Ors. Vs. U.O.I. & Ors. reported in JT 1994(1) SC 574 in which a Full Bench of the Hon'ble Supreme Court comprising Hon'ble Mr. Justice J.S. Verma, Hon'ble Mr. Justice N.P. Singh and Hon'ble Mr. Justice N.N. Venkatchalliah rejected the appeal of the Pharmacists who were drawing lower pay scale for refixation of their pay on par with those Pharmacists who were fixed in higher pay scale. The operative portion reads as follows:-

"In the facts of the present case there is no scope for applying the principle of equal pay for equal work; where the petitioners belong to a separate category of Pharmacist with reference to the qualifications prescribed under the recruitment rules Article 14 of the

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Constitution does not get attracted and as such there is no element of arbitrariness in the decision of the respondents to implement two scales of pay for two categories of Pharmacists Group-B. It does not violate any of the provisions of the Constitution calling for interference by this Court."

Thus, it is clear that the applicant cannot claim arrears by claiming a higher scale on the basis of equal pay for equal work as decided by the Hon'ble Supreme Court in case of Shyam Babu & Ors. Vs. U.O.I. & Ors. and the arrears as per fixation of his pay, the arrears have already been paid. The reply has also been given to him. It is accordingly dismissed at the admission stage itself on ground of limitation and also in view of the decision of Hon'ble Supreme Court disallowing parity in pay scale of two categories of Pharmacists.


(B.R. Singh)
Member (A)

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