

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1663/96
T.A. No.

199

(b)

DATE OF DECISION 17-01-1997

Petitioner

Smt. Tara Thomas

Advocate for the Petitioner(s)

Sh. E. X. Joseph

Versus

U.O.I. & Ors.

Respondent

Sh. Madhav Panikar

Advocate for the Respondent(s)

CORAM

The Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
 Member(J)

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1663/96
MA-1599/96

New Delhi this the 17th day of January, 1997.

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

Smt. Tara Thomas,
W/o Sh. V.A. Thomas,
R/o 103, Centenary Hostel,
YWCA, Ashok Road,
New Delhi-1. Applicant

(through Sh. E.X. Joseph, Sr. Counsel with Sh.J.C.Madan)

versus

1. The Union of India through
the Secretary to the Government,
Department of Agriculture,
Krishi Bhavan,
New Delhi-1.
2. The Secretary to the Government
of India, Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-1.
3. The Director of Administration,
Directorate of Extension,
Department of Agriculture &
Cooperation,
Krishi Vistar Bhavan,
I.A.S.R.I. Complex, PUSA,
New Delhi-12. Respondents

(through Shri Madhav Panikar, advocate)

Order(oral)

The applicant has filed this application challenging the order dated 12.11.1993 by which she says that the respondents have erroneously fixed her pay as Regional Home Economist with effect from 18.1.1991. She has also prayed for a direction to the respondents to refix her pay with effect from 18.1.1991 on the basis of the fixation of pay effected from 17.7.89 in accordance with the directions given by this Tribunal in the case of Smt. Tara Thomas Vs. Union of India

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& Ors. (OA-91/91) dated 12.07.1991 and FR 22(1)(a)(1).

2. The applicant has filed MA-1599/96 for condonation of delay under Section 21(3) of the Administrative Tribunals Act, 1985. The learned counsel for the respondents has been heard on this. The applicant was promoted to the post of Regional Home Economist (RHE) on a regular basis by office order dated 31.1.1991 with effect from 18.1.1991. Her pay in that grade has been fixed by the respondents vide order dated 14.2.1991 at Rs.3000/- p.m. from the date of her promotion on 18.1.1991. The applicant had admittedly filed an application (OA-43/96) in the Bangalore Bench of this Tribunal which was subsequently dismissed as withdrawn, as being without jurisdiction on 3.6.96 and thereafter the applicant filed the present O.A. on 6.8.96. Having regard to these facts and the recent judgement of the Hon'ble Supreme Court in M.R. Gupta's case Vs. U.O.I. (1995(5)SCC 628), the delay in filing this application has to be condoned, particularly taking into account the fact that the matter deals with the fixation of pay, which is a recurring cause of action. In this view of the matter, the prayer for condonation of delay is allowed.

3. In pursuance of the decision of this Tribunal in OA-91/91, the respondents had passed office order dated 24.3.92 giving the applicant pay and allowances for the post of Regional Home Economist and Joint Director (Extension) from 17.7.1989 to 17.1.1991. On 17.1.1991 her pay, therefore, was fixed at Rs. 3100/- p.m. in the pay scale of Rs.2200-4000/-. With the amendment of the recruitment rules with effect from 17.6.88, as mentioned above, the respondents promoted the applicant

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from the post of Senior Research Assistant to the post of Regional Home Economist with effect from 18.1.1991 vide order dated 31.1.1991. By the subsequent order dated 14.1.1991, the respondents then fixed her pay at Rs.3000/- p.m. w.e.f. 18.1.1991 thereby lowering her basic pay from what she was actually receiving i.e. Rs.3100/- on 17.1.1991. The respondents have taken a stand that her substantive pay in the post of Regional Home Economist in the pay scale of Rs.2200-4000/- has been fixed at Rs.3000/- p.m. taking into account the fact that she was receiving Rs.2900/- p.m. in the post of Senior Research Assistant. However, it is seen that the Tribunal in the order dated 12.7.1991 in OA-91/91 had directed the respondents to pay the applicant the salary and allowances attached to the post of Regional Home Economist during the period from 17.7.1989 to 19.1.1991 i.e. the period before she was promoted to the post on a regular basis and she was already drawing the salary of Rs.3100/- at the time of her promotion. Therefore, on general principles the stand taken by the respondents in fixing the pay of the applicant at a lower stage on her promotion is not legal or sustainable. In the facts and circumstances of the case they have also not given full effect to the Tribunal's order dated 12.7.1991 in fixing the pay of the applicant at the time of her regular promotion with effect from 18.1.1991. The O.A., therefore, succeeds.

4. For the reasons given above, the impugned order dated 12.11.1993 rejecting her request for refixation of the pay is quashed and set aside. The respondents are directed to refix the pay of the applicant taking into account the pay actually drawn by her on 17.1.1991 i.e. prior to her regular promotion vide order dated 18.1.1991 in terms of FR 22(1)(a)(1) and other relevant

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rules, within a period of one month from the date of receipt of a copy of this order. The difference in pay shall also be paid to the applicant within one month thereafter.

5. The O.A. is allowed as above. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

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