

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A.No. 1599 /1997

Date of Decision: 29 - 5 - 1998

Shri Saroj Kapoor & Ors. . .

APPLICANT

(By Advocate Shri Deepak Verma

versus

Union of India & Ors. . .

RESPONDENTS

(By Advocate Shri R. P. Aggarwal

CORAM:

THE HON'BLE SHRI T. N. BHAT, Member (J)

THE HON'BLE SHRI S.P. BISWAS, 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?


(S.P. Biswas)

Member (A)

29.5.1998

Cases referred:

1. Smt. Prem Devi & Anr. V. Delhi Admin. 1989 Supp (2) SCC 330
2. Amrit Lal Beri Vs. Collector of Central Excise 1997 (1) SLJ (CAT) 518
3. Inder Pal Yadav Vs. UOI 1985 SCC (L&S) 526
4. Dipti Sen Gupta & Ors. Vs. Secretary, Deptt. of Statistics 1998 (1) SLJ CAT 314
5. Deepak Verma Vs. UOI OA 1759/97 Dt. 18.5.98
6. M.R. Gupta V. UOI 1995 (2) SLJ 337 SC
7. R.D. Gupta Vs. UOI 1992 20 ATC 703 (Full Bench)
8. K.C. Sharma Vs. UOI 1998 (1) SLJ SC 54
9. S.R. Bhanrale Vs. UOI 1997 (1) SLJ CAT 14
10. Jaihind Narain V. State of Bihar, AIR 1973 SC 1443
11. Administrator of UT of Daman & Diu Vs. R.D. Valand 1996 SC (L&S) 205
12. R.C. Samanta & Ors. V. UOI, AIR 1993 SC 2276
13. P.K. Ramchandra Vs. State of Kerala & Anr. JT 1997 (8) SC 189

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1599/97

New Delhi, this 29th day of May, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

S/shri

1. Mrs. Saroj Kapoor
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 3. M.M. Bhatia
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 5. N.D. Mrig
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 6. G.C. Rawal
A-357, Sarojini Nagar, New Delhi-23
 7. P.C. Nirala
Sector 4, J/138, Pushp Vihar, New Delhi
 8. S.K. Jain
222, Gulmohar Encl. New Delhi-49
 9. Mrs. Sunita Rawal
A-357, Sarojini Nagar, New Delhi
 10. S.K. Garg
533/XII, R.K. Puram, New Delhi
 11. Bharat Singh
S-33/5, Q.R.DIF III-122002
 12. D.R. Dagar
K3 Chawla Road, Roshanpur N-Garh,
New Delhi
- ... Applicants

(By Advocate Shri Deepak Verma)

versus

1. Secretary
Dept. of Expenditure
M/Finance, North Block, New Delhi
2. Secretary
Dept. of Statistics, M/Planning
Sardar Patel Bhawan, Sansad Marg
New Delhi

3. Executive Director
 Computer Centre, Deptt. of Statistics
 North Block 10, R.K.Puram,
 New Delhi .. Respondents
 (By Advocate Shri R.P. Aggarwal)

ORDER
 Hon'ble Shri S.P. Biswas

The applicants, 12 in number, are Data Processing Assistants (DPA for short - Group 8 post), and continue to feel aggrieved on account of refusal of the respondents inextending the benefit of order dated 14.8.96 of this Tribunal in OA 665/96 at A-1. Consequently, applicants seek issuance of direction to the respondents to grant them the benefit as in A-3 from 1.1.86 instead of 11.8.89.

2. The background facts, in brief, necessary for appreciating the issues involved are as follows. Government of India, in November, 1986, constituted Seshagiri Committee following the recommendation of the fourth Pay Commission for purpose of rationalisation of uniform pay structure of Electronic Data Processing (EDP for short) personnel. The recommendations of the said committee was accepted by the Government and revised pay structures were introduced from 11.8.89 to EDP posts. Details of designation of posts and the pay scales so implemented with effect from 11.8.89 in all the Ministries/departments having EDP posts are available in the OM at A-3. Various EDP posts under R-2 and R-3 were redesignated and the pay scales were revised. Applicants, as DPAs,

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got the benefit of new pay scale of Rs.2000-3200 with effect from 11.8.89. The date of implementation of the A-3 Scheme was challenged in a number of petitions before the Tribunal. A few DPAs of the same department, i.e. Department of Statistics (Ministry of Planning) on receipt of the order of pay scale approached the Tribunal challenging the illegality of the date of implementation of the higher scale. A Bench of this Tribunal in OA 665/96 gave the following order dated 14.8.96:

"The applicants herein belong to the very same organisation as the applicants before the Calcutta and Nagpur Benches. The respondents treated two sets of officers differently for the reason that one set approached the court and the other did not. As a model employer, the respondents should have adopted a uniform standard to similarly situated employees. Therefore, we find no justification in the respondents denying to extend the applicants the benefit of the judgement in the two OAs mentioned".

3. Applicants in the aforesaid OA, as already mentioned, are DPAs under the same respondents who contested OA 665/96. That the Ministry of Finance (Department of Expenditure) and the Secretary, Department of Statistics (Ministry of Planning) herein as R-1 and R-2 were also respondents in OA 665/96. As a result of the order of the Tribunal in OA 665/96, all the 47 applicants therein belonging to the same department were allowed the extension of the benefit of restructuring of pay scale from 1.1.86 instead of 11.8.89. After the issuance of the said order, applicants represented

their case on 24.4.97 seeking extension of the benefit to them ordered in the aforesaid OA but without any response.

4. Applicants would argue that respondents in both the OAs are one and the same. Non-extension of the said benefit has driven the present applicants to challenge the issue before the Tribunal. It is the contention of the applicants that respondents cannot treat two sets of officers of the ^{same} department~~s~~/Ministry~~s~~ differently for the reason that one set approached this court and the other did not. While pressing their claim for extension of the benefit to the applicants, they have relied upon the decisions of the Full Bench of CAT and of the Hon'ble Supreme Court in the following cases:

1. Smt. Prem Devi & Anr. v. Delhi Admn. 1989 Supp(2) SCC 330
2. Amrit Lal Beri Vs. Collector of Central Excise 1997(1) SLJ (CAT) 518
3. Inder Pal Yadav Vs. UOI 1985 SCC (L&S) 526
4. Dipti Sen Gupta & Ors. Vs. Secretary, Deptt. of Statistics, 1998(1) SLJ CAT 314
5. Deepak Verma Vs. UOI OA 1759/97 dt. 18.5.98
6. M.R. Gupta Vs. UOI 1995(2) SLJ 337 SC
7. R.D. Gupta Vs. UOI 1992 20 ATC 703(Full Bench)
8. K.C. Sharma Vs. UOI 1998(1) SLJ (SC) 54
9. S.R. Bhanrale Vs. UOI 1997(1) SLT (CAT) 14
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5. Respondents have resisted the claim on the basis that the cause of action, if any, arose on 2.7.90 when the posts were redesignated and the scales were revised. Accordingly, representation made by the applicants on 24.4.97 on the basis of the judgement in OA 665/96, did not call for any action, respondents would contend.

6. While denying the claim, respondents have placed reliance on the decisions of the Hon'ble Supreme Court in the cases of Jagdish Narain Vs. State of Bihar, AIR 1973 SC 1343, Administrator of UT of Daman and Diu Vs. R.D. Valand, 1996 SCC(L&S) 205, R.C. Samanta & Ors. Vs. UOI, AIR 1993 SC 2276 and P.K. Ramachandran Vs. State of Kerala and Anr. JT 1997(8) SC 189 decided in September, 1997.

7. The issues to be decided are (i) whether the applicants are really similarly placed, (ii) whether based on circumstances of the case they are entitled to get the benefit now being claimed, (iii) if they are being discriminated and (iv) whether the claim is barred by limitation.

8. We have heard the learned counsel for both the parties.

It is not disputed that the applicants, who are DPAs, are holding similar positions like the applicants in OA 665/96. All those 47 applicants in OA 665/96 were DPAs and Data Entry Operators in the same department under R-3 (Ministry of Planning). The fact that the applicants are similarly placed like the employees as in OA 665/96 has not even been refuted by the respondents. In fact, the benefit of the earlier OA has not been offered to the applicants herein not because they are placed differently but because they were not

parties in that OA. Respondents have admitted that "direction of the CAT to grant the respective pay scales with effect from 1.1.86 is with regard to the applicants in OA 665/96 only". It is apparent that the applicants continue to receive their pay package much less than those who were given the benefit from 1.1.86, though similarly placed in all respects. This gives continuous cause of action and the applicants' case therefore come within the ambit of ratio laid down by the apex court in **M.R. Gupta (supra)**. As per the decision of the apex court in the aforesaid case, when the employees are denied proper pay fixation, the period of limitation should not attract.

9. We also find that the applicants had represented their case in April, 1997, i.e. after about eight months from the decision in OA 665/96. It was well within one year. Respondents, however, decided to turn Nelson's eye to applicants' representation. It is well settled in law that where the respondents themselves had delayed, they cannot take the plea of limitation to defeat the just and reasonable claim of the applicants in terms of law laid down by the Hon'ble Supreme Court in the case of **S.R.Bhanrale(supra)**. The cases cited by the respondents did not lend them any support as they relate to repeated representations, promotions and pensionary benefits.

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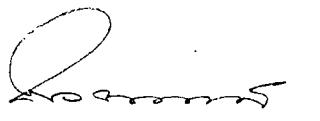
10. We also find that the applicants' case gets support in the decision of the Supreme Court in Amrit Lal Beri (supra). It was held therein that if Government servants get a decision against a particular rule or memorandum, such benefit should not be confined to the parties of the case, the entire department should be benefited by the rule. In the instant case, the issue is not of two sets of employees belong to two different employers. Applicants who have been denied the benefit, belong to the same category and also in the same department under the very same respondents. Discrimination is, therefore, stark in the face of the case and respondents have not denied this. Nor have the respondents denied entitlement of the applicants to the benefits in the order in OA 665/96

11. In the light of the discussions aforesaid, we find no justification in the respondents' stand denying the extension of benefit of the judgement (in OA 665/96) to the applicants herein only on grounds of limitation.

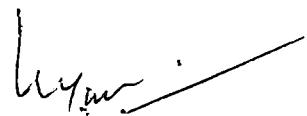
12. The OA is allowed with the direction to the respondents to grant the applicants the respective pay scale with effect from 1.1.86 instead of 11.8.89 already given to those in the aforesaid OA (665/96) and refix their pay accordingly and to disburse to them consequential monetary benefits

flowing from such refixation within a period of three months from the date of receipt of a certified copy of this order.

There shall be no order as to costs.



(S.P. Biswas)
Member (A)



(T.N. Bhat)
Member (J)

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