

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No. 2290/1997

Date of decision: 24.8.2000

Shri Ramesh Kumar & Ors.

Applicants

(By Advocate: Shri S. S. Tiwari

versus

Union of India & Ors.

Respondents

(By Advocate: Shri Mohar Singh

CORAM:

The Hon'ble Justice Shri V. Rajagopala Reddy, VC(J)

The Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the report or not? Yes

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

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(Smt. Shanta Shastry)

Member(A)

Cases referred:

State of West Bengal & Ors. Vs. H. N. Bhowal & Ors. 1994 ATC 524
UOI Vs. P. V. Hariharan (OA No. 7127/93)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2290/97

New Delhi, this 24th day of August, 2000

Hon'ble Shri Justice V. Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastray, Member(A)

1. Ramesh Kumar
G87A, Lajpatnagar
Sector 4, Sahibabad, Ghaziabad, UP
2. S.S.Bhandari
G-151, Nauroji Nagar, New Delhi
3. Naresh Kumar Ahuja
38/12, Ashok Nagar, New Delhi
4. Naresh Advani
C-1/61, Safdarjung Dev. Area
New Delhi .. Applicants
(By Shri S.S. Tiwari, Advocate)

versus

1. Director
Sports Authority of India
Jawaharlal Nehru Stadium
New Delhi
2. Secretary
Department of Youth Affairs & Sports
M/HRD, Shastri Bhavan, New Delhi .. Respondents
(By Shri Mohar Singh, Advocate)

ORDER

Smt. Shanta Shastray

The relief sought in this OA is to quash and set aside the impugned order dated 26.1.96 passed by Respondent No.2 of staying implementation of the order dated 3.12.96 of Respondent No.1 regarding revision of pay scale of Assistants/Stenographers.

2. The applicants, four in number, are presently working as Assistants in the Sports Authority of India (SAI, for short) in the pay scale of Rs.1400-2300 (pre-revised). All of them joined initially as LDCs in 1984 and were promoted as Assistants on different dates between 1991 and 1992. The pay scale of Assistants was revised to Rs.1400-2600 w.e.f. 1.1.86 in pursuance of the recommendations of the 4th Pay Commission. This pay was further revised by the Government of India to Rs.1640-2900 vide OM dated 31.7.90 for the Assistants in

the Central Government. In pursuance of the aforesaid OM certain autonomous bodies also revised the pay scale of Assistants in their organisations during 1995-96. On coming to know about this development, the applicants and other similarly placed employees of R-1 represented on 27.8.96 through Staff Association to grant the revised scale to them also. R-1 considered their representation and approved revised pay scale of Rs.1640-2900 w.e.f. 1.1.96 vide order dated 3.12.96. However, before the same could be implemented, R-2 stayed implementation of the revised scale approved on 3.12.96. Being aggrieved, the applicants have now approached this Tribunal for redressal.

3. It is the contention of the applicants that R-1 is an autonomous body and R-2 is not competent to stay the order of R-1. It has been urged that the proposal to revise the pay scale of the Assistant to Rs.1640-2900 had the approval of the Minister of State for Youth Affairs and Sports, who also happens to be the Chairman of the Finance Committee of SAI. Since the Minister of State has approved the proposal the orders cannot be stayed by R-1. Learned counsel for the applicants also states that similarly placed employees in other autonomous bodies under the Ministry of Human Resources Development (MHRD, for short) such as University Grants Commission, Jawaharlal Nehru University, India Gandhi National Open University and the National Council for Education, Research and Education have given the revised scale to the Assistants in their respective organisations. Being under the MHRD, the applicants ought to have got the revised scale. Applicants are

also aggrieved that no show cause notice was given to them before staying implementation of the order dated 3.12.96. (3)

4. The learned counsel for the respondents submits that though SAI is an autonomous body, it is funded by the Government of India and as per its own rules, the autonomy is limited. Wherever large scale financial implications are involved, the autonomy is subject to the approval of the central government. It has been clearly stipulated in the rules that prior approval of the Central Government is necessary in regard to creation of posts and the pay scales to which holders of the posts will be entitled. In the instant case, approval of the Central Government was not taken before the order dated 3.12.96 was issued and the Central Government has not approved the revision of the pay scale as decided by R-1. Also revision of pay scale granted to the Central Government Assistants and Stenographers was subject to certain conditions. Benefit of OM dated 31.7.90 was extended to autonomous bodies where the posts are in comparable grades, same classification and pay scales and the method of recruitment is through open competitive examination as for Assistants/Stenographers in the Central Government. The applicants do not fulfil these conditions. Applicants were in the pre-revised scale of Rs.425-700 prior to 1.1.86 and not Rs.425-800, the scale which was drawn by the Assistants in the Central Government. Therefore the applicants have no case. It is for the respondents to correct error, if any, and since the pay scale was wrongly revised without the approval of the Central Government the revision had to be stayed. There

is no recovery involved and therefore no show cause notice is necessary. It is further stated that there are two other autonomous organisations under the R-2 and revised pay scale has not been extended to the employees of these two organisations also.

5. Respondents are also relying on the judgements in the cases of State of West Bengal & Ors. Vs. H.N.Bhowal & Ors. (1994) ATC 524 and UOI Vs. P.V.Hariharan (CA 7127/93) to say that revision of pay scales is not the job of the Tribunal.

6. We have heard the learned counsel for the applicants as well as the respondents and have given careful consideration to the pleadings. It is a fact that R-1 revised the pay scale of the Assistants and Stenographers at par with Assistants in the Central Government after obtaining approval of the Minister of State for Youth Affairs and Sports and the Chairman of the Finance Committee. However, it is seen from the financial bye-laws of SAI framed under rule 34 of the Rules of SAI that the governing body shall have full powers to sanction expenditure on any service/scheme upto any amount included in the sanctioned budget. However, all proposals for creation of posts, the maximum of the scale of pay of which does not exceed Rs.1600 (Rs.4500 in the revised scale) and sanction of the scheme will first be considered by the Finance Committee and its recommendations placed before the governing body. Prior approval of the Government of India, in consultation with the Ministry of Finance (Department of Expenditure) will be required for creation of posts in a scale of pay the maximum of which

✓ seen that the proposed revision of pay scale was approved by the Finance Committee but there is no indication to show that it was also approved by the governing body as per the bye-laws. Further according to the Rules, the posts under the Society will be such as are specified in Annexures I ~~II~~ & II as amended from time to time and the scales of pay to which the holders of the said posts shall be respectively entitled shall be those as are mentioned therein against each subject to such orders as may be issued by the Society with the prior approval of the Central Government from time to time.

7. Learned counsel for the respondents has also produced letter dated 2.12.97 which lays down guidelines regarding pay scale revision of employees of quasi-government organisations, autonomous organisations, statutory bodies etc. set up by and funded/controlled by the Central Government. In this OM, the Ministry of Finance have made it clear that revision of pay scale on the basis of the 5th Central Pay Commission maybe extended to employees of autonomous organisations etc. whose pattern of emolument structure i.e. pay scale and allowances are identical to those of the Central Government employees. It is further subject to the stipulation that conditions of service of employees of those organisations specially those relating to hours of work, payment of OTA would also be exactly similar to those in government departments. In the case of those categories of employees whose pattern of emoluments structure i.e. pay scale and allowances and conditions of service are not similar to those of the Central

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Government employees, a separate group of officers in respect of each of the autonomous bodies may be constituted in the respective Ministry/Department. The Financial Adviser of the respective Ministry/Department will represent the Ministry of Finance on this group. The group would examine the proposals and recommend the financial package proposed to be extended to the employees of the autonomous bodies and the final package recommended by the group of officers will require the concurrence of the Ministry of Finance or the Department of Personnel & Training, as the case may be.

8. It is obvious therefore that no revision of pay scale can be granted even for the autonomous bodies funded by the Government of India without prior approval of the Financial Adviser and the Ministry of Finance in the Central Government. Apparently, R-1 failed to obtain the approval of the Ministry of Finance, Central Government before issuing the order dated 3.12.96. In the circumstances, R-2 was bound to correct the error by staying implementation of the aforesaid order. We do not find any infirmity in this matter. Since the order has not been implemented actually, we are of view that there is no need to give any show cause notice to the applicants as the applicants have not been paid any arrears etc in the light of the revised pay scales. R-1 is bound to follow its own financial bye-laws and Rules. We therefore do not see any reason to interfere with the impugned order dated 26.12.96.

9. In the result, the OA dismissed. No costs.

Shanta Shastry
(Smt. Shanta Shastry)
Member(A)

V.Rajagopala Reddy
(V.Rajagopala Reddy)
Vice-Chairman(J)