

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2712/97

New Delhi, this the 19th day of November, 1998.

Hon'ble Mr. N. Sahu, Member(Admnv)
Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Jagdish Chander

(By Advocate Sh. T.C. Aggarwal) ... Applicant

Versus

Union of India

(By Advocate Sh. S.K. Gupta) ... Respondent

1. To be referred to the Reporter or not? YES
2. To be circulated to other Benches of the Tribunal or not? NO

(Dr. A. Vedavalli)
Member(J)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2712/97

New Delhi, this the 19th day of November, 1998.

Hon'ble Mr. N. Sahu, Member(Admnv)
Hon'ble Dr. A. Vedavalli, Member(J)

Shri Jagdish Chander,
S/o Shri Pahlad Rai,
R/o D-44, Prithvi Raj Road,
Adarsh Nagar,
Delhi-110033.

...Applicant

(By Advocate Shri T.C. Aggarwal)

-Versus-

Union of India, through
Secretary to Government of India,
Dept. of Communications,
Sanchar Bhavan,
20, Ashoka Road,
New Delhi-110 001.

...Respondents

(By Advocate Shri S.K. Gupta)

O R D E R

By Hon'ble Dr. A. Vedavalli, Member (J):

Applicant, Jagdish Chander, who was working as a Senior Draftsman under the respondents in the Ministry of Communication, retired voluntarily on 3.1.1990.

2. He prays for the following reliefs in this O.A.:

- "(a) That directions may be given to Respondent to (i) Pay arrears to applicant as per the revised pay so fixed- Annexure A-1.
- (ii) revise applicants pension w.e.f. 3.1.1990, in accordance with the revised pay so granted as per rules..
- (iii) grant interest at the rate of 12% on arrears both on pay, pension, commuted value of pension etc."

(3)

3. It appears from the pleadings in this O.A. that O.A. No. 2766/92 was filed before this Tribunal by 41 Draftsmen, including the applicant regarding grant of higher pay scale earlier. The said O.A. was disposed of by an order dated 5.12.94 (copy not filed by either party). The pay of 15 Draftsmen including the applicant was re-fixed in the revised pay scale by an order of the respondents dated 9.8.95 (Annexure R-1). The said order is extracted below:

"No.43-1/95-Admn.1
Government of India
Ministry of Communications,
Department of Tele-Communications

Sanchar Bhawan
20 Ashoka Road,
New Delhi-110 001.

Dated the 9 August 1995

ORDER

The pay scales of the 15 (fifteen) Draughtsmen (as mentioned in the enclosed statement) are revised and refixed as per the direction of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 2766/92 dated 5.12.1994 and in pursuance of this Department's Office Order of even number dated 21.06.1995.

2. The pay has been fixed notionally as personal to them with effect from 22.08.1973 and with actual benefits from 16.11.1978.

sd/
(K.R. Ranganathan)
Assistant Director General(Admn.)"

4. Subsequently, the applicant filed OA-741/97 dated 7.4.97 seeking, inter alia, pay fixation in terms of note-3 below Rule-7 of the C.C.S. (Revised Pay) Rules, 1973. The revised pay fixed by the respondents vide order dated 9.8.95

By

(A)

regarding the applicant and others was modified in terms of the provisions of Rule 7 (3) of the CCS (Revised Pay) Rules, 1973 by an order dated 28.4.97 (Annexure, R-11) and he was allowed two increments on account of bunching. The said earlier OA-741/97 was disposed of by this Tribunal by an order dated 11.7.97 (Annexure A-2) as under:

"CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA-741/97
MA-1343/97

New Delhi this the 11th day of July, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Sh. S.P. Biswas, Member (A)

Sh. Jagdish Chander,
S/o Sh. Prahlad Rai,
R/o D-44, Prithvi Raj Road,
Adarsh Nagar,
Delhi-33.Applicant

(through Sh. T.C. Aggarwal, advocate)

versus

Union of India through
Secretary to Govt. of India,
Dept. of Telecommunications,
Ministry of Communications,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-1.Respondent

(through Sh. R.P. Aggarwal, advocate)

ORDER (ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)

The learned counsel for the applicant submits that necessary orders have already been issued and the same have been communicated to him. It is stated that the payment of some interest is still outstanding. The applicant may make a representation to the respondents with respect to the interest portion and the respondents will pass appropriate orders within a reasonable time. The remaining claim is agreed to be sorted out between the counsel appearing in this case.

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(5)

In view of the above terms, this O.A. is disposed of. No costs.

sd/-
(S.P. Biswas)
Member(J)

sd/-
(Dr. Jose P. Verghese)
Vice-Chairman (J)"

5. Thereafter, the applicant submitted a representation dated 20.7.97 (Annexure A-3) seeking arrears due and interest thereon etc. He approached this Tribunal again by an MA in the aforesaid OA for a direction to the respondents to expedite decision. The said MA was disposed of by this Tribunal by an order dated 3.9.97 (Annexure A-4) thus:

"3.9.1997.

MA-1343/97 in MA 1989/97 OA 741/97

Present:- None for the parties.

This application under Rule 24 is a fall out of our own orders dated 11.7.1997. In the said order we had directed that the petitioner would make a representation if any further claim is outstanding and the same will be considered within a reasonable time. The petitioner seems to have made a representation on 20.7.1997 and no order has been passed by the respondents. In the circumstances, this M.A. is not maintainable. Let the respondents pass appropriate orders on the said representation in due course.

M.A. is therefore, disposed of.

A copy of this order may be sent to the respondents.

sd/-
(K. Muthukumar)
Member(A)

sd/-
(Dr. Jose P. Verghese)
Vice-Chairman(J)"

6. The aforesaid representation was considered by the respondents and they passed an order dated 23.12.97 (Annexure R-4).

(5)

7. The present O.A. has been filed by the applicant for the alleged failure of the respondents to implement the orders, and directions of this Tribunal in the earlier OAs, as stated by him in paragraphs-7 and 1 of this application.

8. The O.A. has been contested by the respondents who have filed their counter reply, to which a rejoinder has been filed by the applicant. An additional affidavit has also been filed by the respondents pursuant to this Tribunal's order dated 3.8.98 in the present OA regarding the details of payments as to arrears of pay made to the applicant in the two earlier OAs mentioned supra.

9. We have heard the learned counsel Shri T.C. Aggarwal for the applicant and Shri S.K. Gupta, for the respondents. We have perused the pleadings and the material documents and papers placed on record and have considered the matter carefully.

10. Re the first relief sought by the applicant regarding the payment of arrears to him as per the revised pay fixed according to Annexure A-1 dated 28.4.97, the respondents have submitted in their additional affidavit that the arrears of pay have been paid to the applicant through cheque on 8.1.98. The said payment has not been denied by the applicant. In fact he has said in para-4 of the rejoinder that the amount of arrears so calculated

AM

(7)

and paid amounts to Rs.23,653/- Hence the said relief no longer survives for consideration as it has become infructuous.

11. Re the second relief sought by the applicant as to the revision of pension w.e.f. 3.1.90 in accordance with the revised pay, the respondents have submitted that the pension and other retirement benefits of the applicant cannot be revised till the LPA No.109/84 pending before the Delhi High Court is decided in favour of the applicant and finally disposed of in view of the position stated in paragraph 2 of their order dated 23.12.97 (Annexure R-4), which runs thus:

"2. As regards the request for revision of pension, it is stated that the revision of the scale of pay of the applicant and 40- other Draughtsmen was ordered by the Hon'ble Tribunal subject to the following condition.

"The Draughtsmen receiving the monetary benefit on the revision of pay shall give an undertaking in writing that they will refund the amount received on such revision. In case the LPA No.109/84 pending in the Divisional Bench of Delhi High Court (UOI Vs. Dharamvir Sahadev and two others) is decided in favour of the Government. This stipulation has been laid down by the Hon'ble Supreme Court while disposing of the SLP filed by the Department in the said case vide Supreme Court order dated 16.4.93 in CC19204/93."

In view of the above stipulation, pension and other retirement benefits of the applicant cannot be revised till the LPA No.109/84 pending before the Delhi High Court is decided favourably to the applicant and finally disposed of.

The representation of the applicant is disposed of accordingly.

sd/-
(K.S. CHANDRAHASAN)
Assistant Director General (Admn.)"

(B)

12. It has also been stated by the respondents that the other retired Draftsmen also have not been paid pension on the revised pay so far.

13. The above position has not been denied or refuted by the applicant in his rejoinder. On the other hand, he had stated that he has already given the aforesaid undertaking. When the arrears of revised pay have been given by the respondents and received by the applicant subject to the aforesaid condition stipulated by this Tribunal in its judgement dated 5.12.94 in the earlier OA-2766/92 which apparently has become final, as admitted by the applicant himself in the present OA and there is nothing on record to show that the said LPA has been disposed of, the question of revision of pension at this stage obviously is hypothetical and is not maintainable in our view. His claim regarding the second relief is, therefore, rejected.

14. Re the third relief, viz., grant of interest at the rate of 12% on arrears of pay, pension, commuted pension etc. claimed by the applicant, the respondents have submitted in reply that the payment of interest on arrears of revised pay or pension or commuted value of pension etc. is not tenable in view of the position explained by them regarding pending LPA in the Delhi High Court and conditions stipulated by the Tribunal regarding payment of arrears of revised pay supra.

(X)

(19)

15. On a consideration of the matter we are of the view that the applicant has failed to establish any vested legal right showing that the aforesaid arrears were due and payable to him and that there was any undue delay or discrimination on the part of the respondents in making the payment. In the circumstances we are of the view that he is not entitled to the aforesaid relief also, as claimed by him.

16. In the facts and circumstances of this case and in view of the foregoing discussion we are of the considered opinion that the OA is devoid of any merit.

17. In the result, the O.A. is dismissed.
No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

N. Sahu

19.11.98

(N. Sahu)
Member (Admnv)

'Sanju'