

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DA 2925/1997

New Delhi this the 11th day of November, 1998.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

In the matter of

S/ Shri

1. Sudershal Lal
S/O Panna Lal
540, Pocket 4,
Paschimpuri, Janta Qrs.,
New Delhi.
2. Daya Shankar Khanna
S/O Sh. Narayan Khanna
1/6585, Rohtash Nagar,
Shahdara, Delhi-32
3. Kalman Tigga
S/O M.D. Tigga
3/8, Railway Colony,
Lodhi Road, New Delhi
4. Pushkar Singh Thapa
S/O Khaman Singh
4/83, Andrews Ganj,
New Delhi.
5. Tek Chand
S/O Govind Ram
1198, Sector-1,
R.K.Puram, New Delhi-22.
6. Duli Chand
S/O B.Ram
C-240, Nanak Chand Basti,
Kotla Mubarakpur,
New Delhi-3
7. Dharam Pal
S/O Giyarshi Lal
C-356, Nank Chand Basti,
Kotla Mubarakpur, Delhi.3
8. Rajdev Rai
S/O Dev Saran Rai
A-109, Joshi Colony,
Fazalpur, Delhi-92
9. Mool Chand Jilowa
S/O Banwari Lal
I-152, Lancer Road,
Timarpur, Delhi-54
10. Daroga Bhakta
S/O Sukashwar Bhakta
RZ 431/405, Shiv Puri
Gali No.13, West Sagarpur,
New Delhi-46
11. Tek Chand Singh
S/O Persadi Lal
Vill. Saboli Gali No.6,
P.O. Nand Nagari, Delhi.93

12. Shyam Sunder
S/O Late Shri Sohan Lal
Vill. Mandole, Gali Ravi Dass
Mandir, P.O. Nand Nagari,
Delhi-93.

13. Kishan Pal
S/O Surat Singh
H.No. 684, Udayah Panna
Vill. & P.O. Narela
Delhi-40.

14. Deep Chand
S/O Late Rumal Singh
C/O Jai Bhagwan
Circular Road, Jawala Nagar,
Shahdara, Delhi-32

15. Rajesh Kumar
S/O Late Samman Ram
A/II-163, Sector-8
Rohini, Delhi-85.

16. Baij Pal
S/O Doji Ram
H-487, Mangol Puri,
Delhi-83.

17. Brij Nath Chauvay
S/O Satya Narayan Chauvay
59, Vishkarama Park,
Laxmi Nagar, Delhi-92

18. Ravinder Kumar
S/O Ohani Ram
340, Munirka Village
PO J.N.U., N/Delhi-67

19. Heera Lal
S/O Kishan Lal
18/473, Nai Basti,
Kishan Ganj, Delhi-7

20. Mahender Prasad
S/O Late Ram Nagina Prasad
909, S-II, R.K. Puram,
New Delhi-22

... Applicants

(By Advocate Sh. V.K. Rao)

Versus

Union of India, through

1. Secretary, Ministry of Human Resources and Development,
Department of Culture,
Shastri Bhawan, New Delhi.
2. Director,
National Gallery of Modern Art,
Jaipur House, India Gate,
New Delhi.

... Respondents

(By Advocate Sh. Rajeev Bansal)

18

ORDER (ORAL)

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

The applicants who are working as Gallery Attendants with Respondent 2 claim that they should be given the pay scale of Rs. 775-1025 w.e.f. 1.4.1988 as given to similarly situated persons, namely, Gallery Attendants in National Museum in pursuance of the judgment of the Supreme Court in Writ Petition No.1230 of 1987 decided on 10.2.1988.

2. We have heard the learned counsel for the parties and perused the records. The respondents in their reply have stated that Respondent No.1 in consultation with the concerned Ministry, including the Ministry of Finance, have stated that the aforesaid judgement of the Supreme Court shall not be applicable to the applicants. The main contention of the learned counsel for the respondents as seen from the reply is one of the that limitation and the fact/ the judgement of the Supreme Court is ex-parte.

3. With regard to the objections raised by the respondents it is relevant to note that the UOI have themselves been responsible for the ex-parte judgement passed by the Supreme Court in which it has been clearly stated that in spite of several adjournments/opportunities given to the UOI to file their reply, they have failed to do so. In the circumstances an ex-parte order had been passed. With regard to the second objection of limitation, having regard to the judgement of the Hon'ble Supreme Court in M.R. Gupta Vs. UOI (SC SLJ 1995(2)), we are also not satisfied that this case can be dismissed only on the ground of limitation.

4. The applicants have stated that they are performing the same duties as are performed by their counterparts in the National Museum which is also a department under Respondent No.1. Learned counsel for the applicants has also submitted that from the correspondence placed on record, it is seen that Respondent No.2 had also recommended to Respondent No.1 to

grant the higher pay scale on the ground, inter alia, that the applicants are performing the identical duties as Gallery attendants in the National Museum regarding the nature of duties, responsibilities and method of recruitment and other relevant factors which are necessary for taking a decision in the matter. It is relevant to note that on this aspect of the matter there is no specific denial or comments. This is a question of fact and Respondent No.1 ought to have clarified this position which they failed to do.

5. We are informed that in pursuance of the aforesaid judgment of the Supreme Court dated 10.2.1988, the petitioners who were Gallery attendants in the National Museum have been placed in the pay scale of Rs.775-1025/-, revising the earlier pay scale Rs.750-940. Shri Rao, learned counsel, therefore, submits that if the application is allowed the applicants who are similarly situated persons should also be given the similar pay scale with effect from 1.4.1988 or from one year prior to the filing of the OA. In view of the fact that the applicants have themselves stated that they have filed the representations after the judgement of the Supreme Court dated 10.2.1988, only on 20.12.1988, and thereafter did not pursue the matter till filing of this OA on 18.12.1997, in the circumstances of the case we are unable to agree that the applicants are entitled for any arrears of pay and allowances from 1.4.1988 or from one year prior to the filing of the OA. The O.A. has been filed on 18.12.1997 and they shall, therefore, be entitled to claim arrears w.e.f. three months from the date of filing.

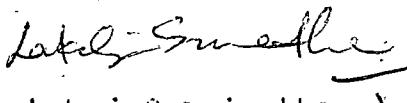
6. In the above facts and circumstances of the case, this O.A. is disposed of with the following directions:-

Respondent No.1 is directed to review and reconsider the question of revision of pay of Rs.775-1025 to the applicants similar to those granted to the Gallery attendants in the National Museum, subject to the duties performed by them being

similar and keeping in view the settled position of law and the recommendations of Respondent No.2. This shall be done within a period of four months from the date of receipt of a copy of this order. They shall pass a reasoned and speaking order in case they do not allow the claim of the applicants for revision of pay scale to Rs.775-1025. It is, however, made clear that the applicants shall be entitled to consequential benefits on such revision only from three months from the date of filing of this OA.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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