

Central Administrative Tribunal, Principal Bench

Review Application No.221 of 1998
(in O.A.No.1741/1997)

50

New Delhi, this the 17th day of November, 2000

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Mr.V.K.Majotra, Member (A)

Shri B.N.Sharma and others - Applicants
(By Advocate Shri Deepak Verma)

Versus

Union of India & others - Respondents
(By Advocate Shri A.K.Bhardwaj)

O R D E R

By V.K.Majotra, Member(A) -

This application has been made seeking review of order dated 13.10.1998 in OA No.1741 of 1997 to the extent that the revision of pay scale be made effective from 1.1.1986 with consequential benefits. The said OA was disposed of with the following directions:-

"8. In the light of the above, we are unable to sustain the order of the respondents as contained in their impugned letter dated 10.1.1997 and as modified and cancelled by their order dated 8.10.1997. These are accordingly quashed. Respondents are, therefore, directed to grant the revised scale of Programmer viz. Rs.2375-3500 to all the applicants and issue appropriate orders in respect of the incumbents of these posts of Programme Assistants redesignated earlier as DPAs and/ Statistical Investigators, in the light of the observations made in this order. In the result, this application is disposed of as above."

2. It is contended by the review-applicants that whereas in the OA the applicants had sought revision of the pay scale i.e. Rs.2375-3500 with effect from 1.1.1986, the same has not been reflected in the said order. The review-applicants have stated that order in OA 1759/1997 (Sh.Deepak Verma Vs. Secretary, Deptt.of Expenditure & others) dated 18.5.1998 (Annexure-RA-2) was brought on record wherein the orders dated 11.9.1989

of the Union of India were incorporated and the revised pay scale was accorded with effect from 1.1.1986. In a subsequent pronouncement of this Tribunal in OA 1599/1997 (Mrs. Saroj Kapoor & ors Vs. Secretary, Deptt. of Expenditure & others) vide order dated 29.5.1998 (Annexure-RA-3) the benefit of revised pay scale was granted with effect from 1.1.1986 instead of 11.8.1989. The applicants have submitted that since they are similarly placed as applicants in the afore-stated OAs they are also entitled to the revised pay scale with effect from 1.1.1986. Thus, the order dated 13.10.1998 in OA 1741/1997 be reviewed and the respondents should be directed to grant the benefits with effect from 1.1.1986 with all consequential benefits.

3. In the counter the respondents have taken a preliminary objection that the review-applicants did not challenge provision of letter no.F.7(1)/IC/86(44) dated 11.9.1989 issued by the Ministry of Finance in the instant OA. According to the respondents though the review-applicants had prayed for grant of revised pay scales with effect from 1.1.1986 this Tribunal while disposing of the said O.A. had not granted the relief accordingly. The respondents have argued that there is no error of law or facts apparent on the face of record warranting review of the order dated 13.10.1998 in OA1741/1997. The respondents have maintained that in the OA the issue was whether the upgradation to the post of Programmer should be as per seniority or on the basis of higher qualification prescribed. The pay scale was not an issue before the Tribunal at all. The order of this Tribunal dated 13.10.1998 in OA 1741/1997 has been

challenged before the Delhi High Court in a Civil Writ Petition and whereas after hearing the arguments in the said CWP, the High Court had reserved the orders. It has desired again that further arguments on the matter should be heard. The respondents have pointed out that some of the EDP Personnel of Armed Forces Head Quarters and Inter Services Organisations have filed O.A.No.1325/1998 (Shri Chandu Lal & others Vs. Union of India) and O.A. No.351/1999 (Shri RK Pareekh Vs. Union of India) seeking the benefit of revision of pay scale with effect from 1.1.1986 instead of 11.9.1989 which are pending adjudication. According to the respondents although such benefits have been accorded in certain Ministries but they cannot be extended to EDP personnel of AFHQ under Ministry of Defence, unless the Ministry of Finance issues necessary orders to that effect. The applicants have filed a rejoinder as well.

4. We have heard the learned counsel of both sides.

5. The learned counsel of the respondents was of the view that non-mention of the effective date for revision of pay scale by the Tribunal in the order dated 13.10.1998 in OA 1741/1997 cannot be termed as an omission or as an error apparent and the remedy for such an omission, if any, cannot be sought through a review-application.

6. To a specific query by the Court, the learned counsel of the applicants admitted that hitherto no junior to the applicants have been granted the revised pay scale with effect from 1.1.1986 instead of 11.9.1989. As to the point that the order dated 13.10.1998 in OA 1741/1997 is appealed against in the

High Court and, therefore, a review application is not maintainable, cannot be accepted. If an appeal is instituted in the High Court, after the review has been filed and the same is still pending adjudication, it is within the powers of the Tribunal to review its order. However, in the present case it has to be seen whether the review-applicants have been able to bring out any error apparent or an omission from adjudication.

7. As regards the order in the case of Mrs. Saroj Kapoor (supra) the same was available before the OA 1741/1997 was adjudicated upon. To state that the same was not within the knowledge of the applicants and should be made the basis for review of the order dated 13.10.1998 in OA 1741/1997 cannot be countenanced. The respondents have maintained that the orders in the cases of Sh. Deepak Verma (supra) and Mrs. Saroj Kapoor (supra) for extension of the benefits of the revised pay scales with effect from 1.1.1986 pertain to different Ministries/ Departments and their benefits cannot be extended to the EDP personnel of AFHQ under the Ministry of Defence.

8. A close perusal of order dated 13.10.1998 in OA 1741/1997 indicates that while the relief relating to the revised pay scale of Rs.2375-3500 was allowed by the Tribunal though it has not been stated that the same should be accorded with effect from 1.1.1986. It has also not been stated that it should not have been accorded from 1.1.1986. The impugned letters dated 10.1.1997 and order dated 8.10.1997 were quashed directing the respondents to grant revised scale of Programmer viz. Rs.2375-3500 to all the applicants in the light of the observations made in the order. The respondents have not granted the revised pay scale of

U

54

Rs.2375-3500 to any junior to the applicants with effect from 1.1.1986. The applicants have quoted certain citations for grant of revised pay scale with effect from 1.1.1986. The applicants will have a grievance only if their juniors are granted the revised pay scale with effect from 1.1.1986. In the order sought to be reviewed it was held that the upgraded scale of Rs.2375-3500 cannot be denied to the applicants as they were duly recruited as Programme Assistants/ Statistical Investigators under the relevant Rules of 1985. Revision of cadre structure posts and new educational qualifications have necessarily to be incorporated as part of Recruitment Rules could only have prospective application and would apply only to the future recruits/promotees to these posts. After considering the entire order sought to be reviewed, we have formulated the view that no issue raised in the OA has been omitted from adjudication. Non-mention of the date from which the revised scale should be made effective is quite in order and has been left to the discretion of the executive.

9. The applicants have not brought out to our notice any glaring error of facts or law warranting review of order dated 13.10.1998 in OA 1741/1997. It is a detailed order passed on merits. The present application, we find, is an attempt to re-argue the entire case afresh. The right of review is possible only on limited grounds. The present application is, therefore, beyond the scope and ambit of a review application. Consequently, the review application is not maintainable and is dismissed.

V.K. Majotra
(V.K. Majotra)
Member (A)

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)