

21

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 260 of 1994

New Delhi this the 28th day of February, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Dr. V. Kaul
192/1 Kanlagarh Road,
Dehradun-248195.

..Applicant

By Advocate Shri M.L. Ohri and Shri S.S. Bhalla

Versus

1. The Union of India through
the Secretary,
Min. of Human Resource,
Development (Department of Culture),
Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110 001.
 2. The Chairman,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110 011.
- ..Respondents

Shri P.H. Ramchandani, Sr. Counsel

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar

The applicant was appointed as Anthropologist (Physical) with effect from 9.11.1989 on the recommendation of the Union Public Service Commission (hereinafter referred to as 'UPSC'). It is stated in the application that even at the time of his accepting the appointment, he had made a representation to the Director General, Anthropological Survey of India, Calcutta, under whom he was appointed requesting for protecting of his pay which he

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was drawing as Lecturer in the Government College Narnal, Haryana. The respondent No.1 on considering the representation had rejected the same on the ground that the U.P.S.C. while recommending his candidature for appointment had recommended that the applicant's pay be fixed at the minimum of the scale of Rs.2200-4000 ~~in the time scale~~ for which he was interviewed and recommended accordingly by the UPSC. It has been submitted in the application that the applicant at the time of his offer of appointment by the respondent No.1 was serving in the Government College, Narnal (Haryana) as Lecturer from 1987 onwards and, therefore, the applicant contends that in terms of the Fundamental Rules (FR) 22, he is entitled to have his pay fixed under these rules and not at the minimum of the pay as recommended by the UPSC.

2. In the reply filed by respondent No.1, it has been stated that at the time when the applicant submitted his application to the UPSC for the aforesaid post of Anthropologist (Physical) with the Anthropological Survey of India^{he} had not made any mention about the fact of his working as Lecturer in the Government College, Narnal (Haryana) in the scale of Rs.2200-4000. They have, however, admitted that the applicant had submitted his application for the post in the Central Government ^{through} ~~the~~ U.P.S.C. before joining as Lecturer in the said Government College in the Government of Haryana. However,

23

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they contend that the applicant's pay was fixed at the minimum of the scale on the specific recommendation of the U.P.S.C. and in view of this, his representation for fixing his pay under the normal rules taking into account the pay he drew in the previous post under the State Government was not considered and his representation was rejected. When the matter came up for hearing on the last date, i.e., 31.1.1996, it became necessary to ascertain from the respondents whether UPSC's recommendation which had been cited in the impugned letter was after consideration of the representation of the applicant wherein they have brought out the fact that at the time when he was considered by the U.P.S.C. for appointment, he was holding the post in the Central Government College. As the learned counsel for the respondents prayed for sometime, this matter was deferred. At the hearing of the matter again today, the learned counsel for the respondents has produced correspondence exchanged between the respondent No.1 and the Director General of Anthropological Survey of India, as contained in their letters dated 3.6.1993 and 21.4.1994. On a perusal of this correspondence, the learned counsel for the respondents fairly, admitted that U.P.S.C. had, in fact, revised the recommendation subsequently and by their letter dated 3.6.1993 had conveyed that in the case of the applicant, the pay may be fixed either at the minimum of the pay scale or according to the rules and instructions issued

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by the Government of India, as the case may be. When this matter was referred to the Director General of Anthropological Survey of India, the latter referred the matter back to the respondent No.1 on the ground that they have no information in regard to the fact of ^{the} applicant having worked in a Lecturer's post in the State Government and they also did not have further details of pay etc. and they have, therefore, desired to be advised as to what stage the pay of the applicant should be fixed. The learned counsel admitted that the first respondent had not taken any further steps in the matter of fixation of pay of the applicant in pursuance of the revised recommendations of the UPSC. However, in the meanwhile, the applicant had also filed the present application in this Tribunal.

3. I have heard the counsel for the parties and have also carefully perused the record.

4. The first question is about the Miscellaneous Application moved by the applicant for condonation of delay in filing this application. Since the matter relates to pay fixation of the applicant and as the applicant had been representing to the department right from the date of his appointment and in as much as he had also raised the question of protection of pay even at the time of accepting the offer of appointment. Any delay in the matter of seeking legal remedy deserved to be condoned and is, therefore, accordingly condoned and the M.A. is allowed.

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5. As regards the main prayer for fixation of the initial pay of the applicant on his appointment as Anothropologist (Physical), it is fairly clear from the information provided by the learned counsel for the respondents at the Bar today that the UPSC itself had recommended that the pay may be fixed at the minimum of the scale or according to the rules and instructions, as the case may be, and this aspect of the matter is still to be decided and orders to be passed by the respondent No.1. In view of this, the application can be finally disposed of with a direction that the respondents may consider the matter with reference to the revised recommendations of the UPSC, as contained in their letter dated 3.6.1993 and advise the Director General of Anthropological Survey of India that the pay is to be fixed in respect of the applicant in the scale of Rs.2200-4000 under the rules if that is found to be admissible with reference to the details of pay that he has drawn in the post under the State Government before joining as Anthropologist (Physical) under the Central Government. The respondents are so directed. It is also directed that the respondents should fix the pay of the applicant in the light of the above direction within a period of 6 months from the date of receipt of a copy of this order. The learned counsel for the applicant at this stage pressed that in case the applicant is aggrieved by the actual fixation of pay done

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by the respondents, he should be given freedom to approach this Tribunal once again.

6. The application is disposed of with the above direction with liberty to the applicant to approach this Tribunal in case he has any further grievance in the fixation of initial pay of his appointment as Anothropologist (Physical).

No costs.



(K. MUTHUKUMAR)
MEMBER (A)

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