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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. NO.1820/94

New Delhi, this the 21st September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri Nand Kumar,
s/o late Shri Alau Ram,
R/o 754, Sector III,
R.K. Puram, New Delhi.

.... Applicant

(Shri T.C. Aggarwal, Advocate)

Vs.

Union of India
through
Secretary,
Ministry of Information & Broadcasting,
Shastry Bhavan,
New Delhi.

... Respondents

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant earlier filed O.A. No. 3301/92 before the Principal Bench which was decided by the order dated 3.12.93. In that O.A. the applicant has prayed for the grant of the following reliefs:-

- i) to direct Respondent to extend the benefit of Grade III CIS to the applicant with grade pay and arrears w.e.f. 1.1.73;
- ii) a direction to pay the applicant cost of Rs.1000/-.

That O.A. was decided by the order dated 3.12.93. The direction given in the judgement that the applicant shall be treated at par with the other Filed Publicity Officers whose pays have been refixed w.e.f. 1.1.73

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on the basis of the recommendations of the Third Pay Commission. In particular, the department should see to it that the applicant's case is not distinguished from those of Shri R.C. Panigrahi and Shri K.S. Jagan Nath Rao. The prayer of the applicant for interest at the rate of 10% for the delayed action in the matter of refixation of the pay of the applicant was however disallowed inasmuch as the applicant himself was inactive and did not choose to come to the Tribunal as was done by Shri R.C. Panigrahi and Shri K.S. Jagan Nath Rao.

2. The relief claimed in the present O.A. is:-

- (i) Direct the respondent to give grade III Central Information Service to applicant from 1.1.73,
- (ii) Direct respondent to grant interest on the delayed payment.
- (iii) Direct respondent to hold review D.P.C. in promotional grades Grade II and Grade I according to revised seniority.

3. Heard the learned counsel for the applicant on admission.

4. The main thrust of the learned counsel is that the letter dated 18.4.94, the applicant was informed about his representation dated 6.4.94 on the implementation of the judgement dated 3.12.93 in O.A.No.3301/92. That on the basis of the judgement of Shri R.C. Panigrahi and Shri K.S. Jagan Nath Rao, the benefit of pay scale of FPO w.e.f. 1.1.73 as long as he worked against the upgraded post of FPO upto 30.6.76 was granted to him. As per these judgements, S/Shri R.C. Panigrahi and K.C. Jagannath Rao's seniority in Grade III of CIS have also not been refixed w.e.f. 1.1.73.

Thus, his request for refixation of seniority in Grade III of CIS w.e.f. 1.1.73 and grant of consequential benefits cannot be acceded to. The applicant in the present O.A. has not made any relief with respect to the grant of seniority in Grade III of CIS. The direction in the earlier judgement in O.A. No.3301/92 was that the applicant be treated in all respect at par with Shri R.C. Panigrahi and Shri K.S. Jagan Nath Rao. The respondents have granted that relief to the applicant. The learned counsel for the applicant has also referred to the decision of Hon'ble Supreme Court in writ petition No.1888 of 1978 in the case of P. Parameswaran & Ors. Vs. The Secy. to the Govt. of India. The Hon'ble Supreme Court held in that case "we do not think that it is open to the Government to deny the benefit of the revised Grade and Scale with effect from 1.1.73 as in the case of all other persons merely because of some administrative difficulties. To do so will be discriminatory". In view of this a direction was given by the Hon'ble Supreme Court to the respondents to give effect revised grade and scale from 1.1.73 to the petitioners. The learned counsel for the applicant has also filed O.M. dated 17.11.87 regarding refixation of pay of Filed Publicity Officer upgraded to the Grade III of CIS on the recommendations of Third Pay Commission. He has also filed the judgement of another O.A. No.1881/91 decided by the Principal Bench on 10.10.91 in the

case of D.C. Mahapatra & Ors. Vs. Union of India and Another. In that case also refixation of pay of the petitioners of that case alongwith arrears in terms of letter dated 8.10.91 was directed and arrears were also to be paid within the period of three months and further the petitioners of that case be given Grade III of CIS as recommended by Third Pay Commission and as ordered by Hon'ble Supreme Court in similarly circumstanced case. He has also filed a copy of the judgement in O.A.No.2753/91 in the case of R.C. Panigrahi Vs. Union of India decided on 16.4.92, a similar direction was given in that case also. A similar direction was also issued by the Principal Bench in O.A. No.3009 of 9991 decided on 16.12.92 in the case of Shri P.K. Tripathi Vs. Union of India. In that too only the respondents were directed to pay the arrears to the applicant from 1.1.73. Thus, the applicant has been fully given the benefit of the refixation of pay w.e.f. 1.1.73 in Grade III of CIS.

5. The contention of the learned counsel is that he has not been given seniority and consequential promotions to Grade II and Grade I of CIS. The applicant has not claimed this relief in the earlier O.A. No.3301/92 and he files C.P.No.218/94 which was rejected. It was, however, observed in that order that the applicant may assail any grievance regarding the illegality of the order dated 18.4.94. It is because of this

the learned counsel for the applicant contended that the order dated 18.4.94 has not given benefit of seniority. The respondents have in their aforesaid order clearly stated that the benefit has been given to the petitioners in the other O.A. i.e. Shri R.C. Panigrahi and Shri K.S. Jagan Nath Rao and the same also cannot be accorded to the applicant. We find no legality in this order. The applicant was within his right to claim this benefit also in the earlier O.A.3301/92 which he has not claimed. He has also not claimed any revision of seniority on account of refixation of pay in Grade III of CIS by virtue of the judgement in O.A.3301/92. He has almost claimed the same relief in this O.A. which has been considered and judicially reviewed in the O.A.No.3301/92. The application therefore does not lie and barred by principles of adjudication.

6. The O.A. is therefore does not make out a prima-facie case for admission and it is therefore dismissed as not maintainable.

B.K. Singh
(B.K. SINGH)
Member (A)

J.P. Sharma
(J.P. SHARMA)
Member (J)

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