

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2020/94
M.A.No.2935/95

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New Delhi this the 25th Day of March, 1996

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Dr A. Vedavalli, Member (J)

1. Shri Dinkar Rao Kawday
Sr. Draughtsman (Retd.)
Ministry of Urban Development
L&DO, Nirman Bhavan,
R/o Flat No.55
Raja Enclave Coop G.M. Society
Road No.44, Pitampura,
Delhi-34

2. Shri Surinder Sharma

Ministry of Urban Development
L&DO, Nirman Bhavan,
New Delhi
R/o V&P.O. Sankhoul,
Distt Rohtak,
(Haryana)Applicants

(By Advocate : Shri J. Banerjee)

VERSUS

UNION OF INDIA, THROUGH

1. The Secretary,
Ministry of Urban Development,
L&DO, Nirman Bhavan,
New Delhi-110 011.

2. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi.Respondents

(By Advocate : Shri VSR Krishna)

ORDER (ORAL)

(By Hon'ble Shri S.R. Adige, Member (A))

1. In this application Shri Dinkar Rao Kawday and one another have prayed to quash the orders dated 7.12.1992 and 27.1.1993 issued by the respondent No.1 and to direct the respondents to notionally fix the applicants' pay in the revised pay scales w.e.f. 1.1.1973 instead of 1.11.1983.

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2. Shortly stated, both the applicants who belong to the Land and Development Office, Ministry of Urban Development, Government of India contend that consequent to a claim made by CPWD draughtsman Gr.I, II and III for higher pay scales, the dispute was referred to an Arbitration Board set up by the Labour Ministry who gave them award on 20.6.80 as a result of which revised pay scales was sanctioned to the above mentioned grades of (PWD) draughtsmen notionally w.e.f. 22.8.73, and with actual benefits from 16.11.78. Thereafter, the draughtsmen working in the Ordnance Factories under the Defence Ministry were also sanctioned revised pay scales as granted to the CP WD Draughtsmen, and the same benefit was also subsequently extended to the Draughtsmen working in the Department of Posts and the Department of Telecommunication in accordance with the CAT, Principal Bench Judgement delivered on 31.7.92 in O.A No.1978/88 of All India P&T Civil Wing Non-gazetted Employees Union Vs Union of India & ors.

3. Meanwhile the Ministry of Finance (Deptt. of Expenditure) issued O.M. dated 13.3.84 (Annexure R-1) extending the benefits of the award to the draughtsmen Grade I, II and III working in all Government of India Offices, as had been given to the CPWD draughtsmen, but the benefits of the revised pay scales were given notionally w.e.f. 13.5.1982 and the actual benefits being allowed w.e.f. 1.11.1983.

4. Thereupon, other draughtsmen of various Ministries/Offices of the Government of India approached the Tribunal for grant of revised pay scales notionally

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w.e.f. 22.8.73 and with actual benefits from 16.11.78. One such O.A. bearing No.1291/87 (Shri Balbir Singh & Ors Vs UOI & Ors) ^{was} disposed of by CAT, Principal Bench, on 11.10.1989 whereby benefits of the award were ordered to be extended to the other employees who were similarly situated, as a result of which the Ministry of Communication, Telecom, Commission issued order dated 28.4.92 (Annexure A-12) by which the applicants in that O.A. were granted revived pay scales notionally w.e.f. 22.8.73 or the dates they were actually appointed as Draughtsmen Grade I, II & III whichever was later, with actual benefits from 16.11.78.

5. Similarly in O.A. No.1721/88 Shri Bhajan Singh and Ors Vs UOI & Ors the applicants claimed benefit of pay revision as had been given to employees in the CPWD w.e.f. 22.8.1973 notionally instead of 1982 and actual benefits from 16.11.1978 instead of 1.11.1983 with all consequential benefits. This O.A. was allowed by CAT, Principal Bench, order dated 28.10.1991 based on the judgement delivered in the case Dharam Vir Sehdev & Others Vs Union of India & Another, whereby those applicants were allowed benefits of the revised scales of pay as have been given to their counterparts in the CPWD notionally w.e.f. 22.8.1973 and actually w.e.f. 16.11.1978.

6. It appears that meanwhile the present applicants had separately approached this Tribunal in O.A.773/93. This O.A. came up for hearing on 16.6.93, and on that date, the applicant's counsel, after consulting one of the applicants who was present in person, in the Court,

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sought permission to withdraw this O.A. Accordingly this O.A. was dismissed as withdrawn in the presence of the applicant's counsel as well as the Respondent's counsel. The applicant's counsel Shri Banerjee has stated before us at the Bar today that O.A.773/93 was withdrawn upon the instructions of his client, because the applicants had separately been assured by the respondents that the prayer for granting pay revision notionally w.e.f. 1973 and actually w.e.f. 1978 would be allowed to them. However, Shri Banerjee stated that they had waited for nearly one year but finding that the respondents were not taking any action in the matter and, therefore, they were compelled to file this O.A.

7. Shri VSR Krishna, learned counsel for the respondents has stated at the Bar that there was no such assurance given by the respondents and has contended that the O.A. is, therefore, hit by limitation.

8. We have considered this argument carefully. We agree with Shri Banerjee's contention that as this is a matter of pay revision, it is a continuing cause of action and, therefore, in the facts and circumstances of the case, the law of limitation does not apply, and the ground of limitation, therefore, is rejected. *17.9.11 No 3410/95*
prayer for condonation of delay in filing this O.A. is allowed.

9. Shri Krishna has stated very justly and fairly that as the O.A.773/93 was not disposed of on merits no ground of resjudicata lies against entertainment of the present O.A. Hence that ground is not pressed.

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10. The only answer given by the respondents in reply to the claims of the applicants is that the impugned pay fixation is in accordance with Finance Ministry's O.M. dated 13.2.1994, according to which the revised pay fixation is to be made notionally w.e.f. 13.5.82 and actually w.e.f. 1.11.83 but in the light of the Tribunal judgement referred to above the applicants before us cannot be denied the benefit of revived pay fixation notionally w.e.f. 22.8.73 and actually w.e.f. 16.11.78.

11. In the result we hold that the two applicants before us are entitled to the benefit of revised pay fixation notionally w.e.f. 22.8.1993 and actual benefits from 16.11.1978 as has been granted to their CPWD counterparts (who incidentally belong to the same department/Ministry) with all consequential benefits as are admissible under the rules. The arrears should be paid to the applicants within a period of 4 months from the date of receipt of a copy of this judgement.

12. Shri Banerjee, does not press M.A.991/96, which is dismissed. Permission to withdraw M.A. No.2935/95 is allowed.

13. No Costs.

A. Vedavalli
(Dr A. Vedavalli)
member (J)

S.R. Adige
(S.R. Adige)
Member (A)

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