

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.932 of 2000

New Delhi, this 13th day of February 2001

HON'BLE SHRI SHANKER RAJU, MEMBER(J)

Smt. Kamlesh Khaneja  
W/o Shri Ramesh Sagar  
R/o S-1/71 Old Mahavir Nagar  
New Delhi-18 ) ... Applicant

(By Advocates: Shri S.C. Luthra with  
Shri O.P. Khokha)

versus

Govt. of N.C.T. of Delhi, through

1. The Secretary  
Department of Education  
5 Sham Nath Marg  
Delhi 110 054
2. The Director of Education  
Old Secretariat  
Delhi 110 054
3. The Dy. Director of Education  
Dist. North West  
Pritam Pura  
New Delhi
4. The Principal  
Govt. Girls Sr. Sec. School  
Narang Colony  
Kanhaiya Nagar  
New Delhi 110 035 ... Respondents

(By Advocate: Shri George Parackken)

ORDER(Oral)

In this OA, the applicant seeks interest on delayed payment on account of revision of her pay scale in pursuance of a policy decision taken by the respondents.

2. The brief facts leading to the filing of this OA is that the applicant, a Trained Graduate Teacher, has, on deputation, joined the Directorate of Education on 15.2.1984 on being transferred

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from Haryana Government and later on absorbed permanently on 27.2.1986. The applicant along with other similarly situated incumbents had been treated as fresh appointees as per the terms and conditions of deputation as laid down by the respondents. The initial start of pay pertaining to the applicant was Rs.440-750 irrespective of the pay the applicant was last drawing in her parent State. As per a policy decision taken by the respondents, the pay of a Trained Graduate Teacher deputationist viz. Shri Ramesh Thakkar has been revised vide order dated 10.6.1993 and thereafter she had been paid arrears on 1.1.1994. That the applicant came to know all these developments and accordingly preferred a representation on 8.8.1994 and thereafter on 25.8.1994 as well as 7.9.1994 enclosing all the relevant documents pertaining to revision of her pay scale which included the Service Book of Haryana State which inter alia contained in itself the Last Pay Certificate. According to the applicant, despite supply of all the relevant documents pertaining to the revision of pay scale, as done in the case of the similarly situated incumbents, the respondents have delayed the implementation of the policy decision in the case of the applicant. Ultimately the applicant preferred a representation on 16.1.1997 to the Lt. Governor and in pursuance of the same, the applicant had been asked to furnish the Last Pay Certificate from her parent department to enable

the department to work out her case. According to the respondents, the Last Pay Certificate has been submitted by the applicant on 19.3.1997 and thereafter the policy decision has been applied in the case of the applicant vide order dated 16.7.1999 revising the pay of the applicant. The applicant contends that as the revision was in pursuance of a policy decision which was well within the knowledge of the respondents and as well as the documents relevant for the purpose of this revision was already in possession of the respondents, the claim of the applicant has been decided belatedly within any justifiable reason and on this basis the applicant claims an interest of 18% on delayed payment of arrears to her with effect from 1.1.1994, the date when similarly situated incumbents had been paid the arrears. According to the applicant, payment of arrears and interest is a recurring cause of action and the law of limitation would not apply in such a case. The applicant further contends that she had represented to the department for claim of interest over delayed payment by way of sending a legal notice on 8.3.1999 through an Advocate. The applicant further contended that despite, as alleged by the respondents, furnishing of Last Pay Certificate on 19.3.1997, the necessary orders have been issued only on 16.7.1999 and thereafter without any reasonable ground the payment was ultimately made to her on 19.7.2000 which itself is a delayed action on the part of the respondents.

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3. The respondents in their reply contended that the claim of the applicant is badly delayed under Section 21 of the Administrative Tribunals Act, 1985. As the applicant had made a representation on 8.8.1994 it would not extend the period of limitation. According to the respondents, the applicant is staking the claim of grant of revision of pay scale in parity with the similarly situated incumbents granted to them in the year 1993 and at that time the applicant had not represented to the department and according to the respondents, on making a representation in August 1994 the applicant should have resorted to filing of OA before this Tribunal within the stipulated period of six months as per rule. It has been further contended that the case of every individual is to be examined separately and as the case of the applicant has been considered the necessary modifications have been made and the benefits of fixation of pay in the scale of Rs.440-750 has been made admissible to the applicant and ultimately she had been paid the arrears. It is further contended that unless the terms and conditions of the deputation were revised by the competent authority, the question of re-fixation of pay does not arise. The Service Book of the applicant maintained by the Haryana Government was of no use unless the orders of revision of terms and conditions were issued. It has been further contended that the

file of similarly situated incumbent Shri Ramesh Thakkar was not traceable and ultimately the case was decided on merits. According to the respondents, the applicant was asked to submit the details of pay drawn by her in Haryana Government at the time of joining Delhi Government on deputation at her own request which she supplied only in February 1997. It was further contended that the pay of the applicant was fixed by the school on 31.8.1999 and the Service Book was updated. The question of payment of arrears was kept in abeyance bonafidely as another case for grant of senior scale to the applicant was pending. The respondents lastly contended that the delay of about six years in staking the claim in the present application is unjustified and makes the present application not maintainable due to the vice of delay and laches.

4. We have carefully considered the rival contentions of the parties and perused the material on record.

5. It is not disputed that re-fixation of the pay of deputationists appointed with the respondents was taken as a policy decision in the year 1993 and similarly situated incumbents were given the benefits of the revision of pay on 10.6.1993 as well as the arrears were paid to them with effect from 1.1.1994. In the case of the applicant, she had raised her grievance

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immediately on coming to know of the decision of a similarly situated incumbent on 8.8.1994 and supplied the relevant documents to the respondents including the Service Book of Haryana State which according to the respondents only contained the fact of basic pay drawn by the applicant as alleged by the respondents and the respondents further directed the applicant to furnish the Last Pay Certificate which admittedly had been furnished by the applicant on 19.3.1997. The respondents even after having all the requisite documents to process the case of the applicant under the policy decision to grant her revision of pay took more than two years to issue the Corrigendum dated 16.7.1999 whereby the benefit of revision of pay scale has been restored to the applicant. We also find from the record that even after taking a decision to revise the pay of the applicant on 16.7.1999 the respondents took about an year to disburse the arrears of payment amounting to Rs.2,74,070. The ground adduced by the respondents to justify the delay of settling the claim of the applicant and paying her arrears with effect from 19.3.1997 when all the relevant information have been in possession of the respondents are absolutely vague and are not sufficient to accede to the request of the respondents that the action was taken bonafidely as the claim of the applicant was under process. I find no valid explanation

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given on this delay of fixation of pay of the applicant and payment of arrears to her with effect from 19.3.1997.

6. As regards the question of limitation is concerned, I am of the confirmed opinion that the question of payment of arrears and interest thereon is a continuous cause of action and would not attract the law of limitation. On this view, I am fortified by a ratio laid down by the Hon'ble Apex Court in M.R.Gupta Vs. UOI [1995 (2) SCSLJ 337]. Apart from it, I find from the record that the applicant has promptly raised her grievance by making a representation to the concerned authorities and thereafter played her part by submitting the Last Pay Certificate on 19.3.1997. the delay attributable in non fixation of pay and payment of arrears is not at all attributed to the applicant. Hence the objection of the respondents regarding the limitation is not well founded and is rejected.

7. Having regard to the discussions made above, I am of the considered opinion that the respondents, despite submission of Last Pay Certificate by the applicant on 19.3.1997, have not decided her case of fixation of pay and paid her arrears and delayed the case without any justified reasons and grounds.

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8. In the result, the OA is disposed of with a direction to the respondents to pay to the applicant an interest of 12% on arrears of pay fixation with effect from 19.3.1997 till 19.7.2000 within a period of two months from the date of receipt of the copy of this order. No order as to costs.

S. Rajm  
(Shanker Raju)  
Member(J)

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