

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1366 of 1989

Date of decision: 25.10.1991

Shri D.V. Singh

...Applicant

Vs.

The Director General, ESIC & Others ...Respondents

For the Applicant

...Mrs. Raj Kumari
Chopra, Counsel

For the Respondents

...Shri D.P. Malhotra,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant who has worked as Laboratory Technician in the office of the Director General, Employees State Insurance Corporation (ESIC) at Delhi filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

"(i) To direct the respondents to apply the ratio of the judgment in T-747/86 to the present applicant forthwith;

(ii) to direct the respondents to give the applicant arrears of pay and all other consequential benefits;

Q

(iii) to direct the respondents to pay the cost of the legal proceedings; and

(iv) to pass any other order or direction which this Hon'ble Tribunal thinks fit and proper in the facts and circumstances of the case".

2. The facts of the case are not disputed. The applicant was initially appointed in the Delhi Administration in the Employees State Insurance Scheme (ESI Scheme) as Laboratory Technician in the pay scale of Rs.110-200. Prior to 1.4.1962, the ESI Scheme was under the administrative control of the Delhi Administration. After that date, it was transferred to the ESIC. On 20.1.1962, the members of staff of the ESI Scheme were given the option to remain under the Delhi Administration or to go over to ESIC. Those who opt for the ESIC would be given the following benefits:-

"(a) That the period of continuous Government service rendered by an employee and which would have counted towards the grant of pension and seniority would be taken into account by the Corporation for the grant of both pensionary benefits and seniority; and

(b) That the terms and conditions of service and pay scales as applicable to corresponding categories of Central Government servants will be admissible to the employees when transferred to the Corporation Scheme".

3. The applicant, along with others, opted for the services

under the ESIC.

4. On 4.10.1974, the applicant was confirmed by the ESIC in the grade of Laboratory Technician with retrospective effect from 1.4.1966. On the date of his transfer from the Delhi Administration to the ESIC, the corresponding category of Laboratory Technicians employed in the Hospital and dispensaries run by the Central Govt. were getting the pay scale of Rs.150-300 plus usual allowances. When this was denied to those who were absorbed in the ESIC, Shri Virbhan Thakkar and some others who were the colleagues of the applicant, filed a Writ Petition in the Delhi High Court in 1974 which stood transferred to the Tribunal and was disposed of by judgment dated 25.4.1988. The Tribunal partly allowed the petition with the direction that the pay of the petitioners shall be fixed in the pay scale of Rs.130-300 (Graduates will be given a higher start of Rs.150/- in the scale) from 1st April, 1962 or the actual date of their joining the ESI Corporation, whichever is later and they (including legal heirs in the case of petitioner No.4) shall be paid arrears of salary and increments in the said scale for the period upto 31st December, 1972. This direction shall be complied with within a period of three months of the receipt of this order by the respondents.

5. The applicant filed the present application for extending the benefits of the aforesaid judgment to him who was similarly situated.

6. The respondents have stated in their counter-affidavit that the ESIC decided to extend the benefits of the aforesaid judgment to the applicant and action had been initiated for that purpose. At the time of the hearing of the case, the learned counsel for the respondents submitted that the arrears of pay and allowances due to refixation of pay in the cadre of Laboratory Technicians for the period from 1.4.1962 to 31.3.1990 had been disbursed to the applicant as under:-

| *S.No. | Period | Amount | Date of Disbursement |
|--------|---------------------|--------------|----------------------|
| 1. | 1.4.62 to 31.3.68 | Rs.812/- | 22.5.1990 |
| 2. | 1.4.68 to 31.12.71 | Rs.1044/- | 24.5.1990 |
| 3. | 1.1.72 to 31.3.1990 | Rs.13,290.30 | 26.4.1990". |

7. The applicant has not denied having received the aforesaid amounts. However, the learned counsel for the applicant argued that a direction should be issued to the respondents to pay to the applicant interest on the outstanding dues and costs.

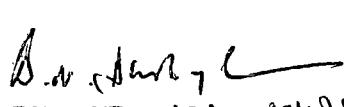
8. We have gone through the records of the case and have considered the matter. The applicant has not only prayed for granting to him the benefit of the judgment of the Tribunal in Virbhan Thakkar's judgment dated 25.4.1988 but also for all other consequential benefits which have not been spelt out by him.

9. On 20.3.1990, the respondents issued an office order promoting the applicant along with some others, as senior Laboratory Technicians on provisional basis and subject

to the outcome of OA 2548/89 filed by Smt. Urmil Sharma and Others pending in this Tribunal. The only question which survives is whether the applicant is entitled to interest for delayed payment of arrears of pay and allowances and costs of the litigation.

10. The applicant is senior to Shri Virbhan Thakkar and after this Tribunal ~~xxxxx~~ delivered its judgment on 25.4.1988, the respondents should have, on their own, given to the applicant the same treatment as was given to Shri Virbhan Thakkar in the matter of refixation of pay and allowances and ~~or not a~~ payment of the arrears. That was~~/~~done. The respondents have not given any reasons for the delay in refixing the pay of the applicant and releasing the arrears to him. In the interest of justice and equity, we are of the opinion that the applicant would be entitled to interest on delayed payment. The application is, therefore, disposed of with the direction to the respondents to pay simple interest at the rate of 12% per annum on the outstanding dues from 1.4.1962 to 31.3.1990 upto the date of disbursement of the said dues. The applicant would also be entitled to all consequential benefits. The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

There will be no order as to costs.


(B.N. DHOUDIYAL) 25/10/91
MEMBER (A)


25/10/91
(P.K. KARTHA)
VICE CHAIRMAN (J)