

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1614/89  
~~Tax No.~~

199

DATE OF DECISION July 1, 1991.

<u>Mohinder Singh</u>	Petitioner
<u>Shri R.K. Kapoor,</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India &amp; Ors.</u>	Respondent
<u>Shri Bhandula</u>	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. I.K. Rasgotra, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*Ab*  
(AMITAV BANERJI)  
CHAIRMAN  
1.7.1991

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PRINCIPAL BENCH  
NEW DELHI.

REGN. NO. O.A. 1614/89.

DATE OF DECISION: July 1, 1991.

Mohinder Singh

.... Applicant.

Versus

Union of India & Ors.

.... Respondents.

CORAM: Hon'ble Mr. Justice Amitav Banerji, Chairman.  
Hon'ble Mr. I.K. Rasgotra, Member(A).

For the Applicant.

.... Shri R.K. Kapoor,  
Counsel.

For the Respondents.

.... Shri K.L. Bhandula,  
Counsel.

(Judgement of the Bench delivered  
by Hon'ble Mr. Justice Amitav  
Banerji, Chairman)

This Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 by the applicant Shri Mohinder Singh, who is working as Senior Comptometer Operator (Senior Computer) under Central Electricity Authority (C.E.A.), New Delhi, praying that he is entitled to higher pay scale of Rs.425-700 and all attendant benefits including all arrears with effect from the date of revised pay scale based on recommendations of the Third Pay Commission became effective, and further to direct the respondents to calculate the amount due to him along with the interest @ 12% per annum. His plea is that he had made a representation placing the post of Senior Computer in the grade of Rs.425-700. The department has, however, rejected the same. Subsequently, the Tribunal in two cases, B.S. SAINI & ANR. VS. U.O.I. & ANR. (T.A 335/85), decided on 11.4.1986, & A.K. KHANNA & ORS. VS. U.O.I. & ORS. (O.A. 1942/88), decided on 6.9.1988, held in favour of Senior Computers in the Central Water Commission (C.W.C.). The applicant is working

in the Central Electricity Authority (C.E.A.) and has claimed that originally both the departments were part of the Central Water and Power Commission (C.W.P.C.). The C.W.P.C. had two wings, one wing known as 'Water Wing' and the other wing known as 'Power Wing'. His case further was that on the basis of 3rd Pay Commission, 80% Senior Computers working in C.W. & P.C. were given the new pay scales of Rs.330-560 and rest 20% Rs.425-700. The applicant was transferred in the Central Electricity Authority (C.E.A.) and he made a request for placing in the post of Senior Computer in the scale of Rs.425-700. This request was rejected by the department vide its order dated 19.6.1976. (Annexure A-10). His further grievance is that no action was taken for providing future promotional avenues for this post, which was available to his counter parts in the Water Wing, subsequently known as Central Water Commission. In other words, his contention was that Senior Computers working in the Central Electricity Authority (C.E.A.) were also entitled to the same scale as that of Senior Computers in the Central Water Commission (C.W.C.), and he relied on two decisions of the Tribunal in the cases of B.S.SAINI & ANR. VS. U.O.I & ANR and A.K. KHANNA & ORS. VS. U.O.I. & ORS. (SUPRA).

The applicant had also made prayers for several other reliefs. Prayers No. (2), (3) and (4) were subsequently withdrawn by an Application for amendment of the pleadings dated 25.8.1989. We are, therefore, concerned only with the prayer No. (1) and (5).

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The respondents' plea was that the Application was hopelessly time barred as the applicant was seeking relief to an order dated 19.6.1976/<sup>in</sup> which he was conveyed the order rejecting his representation. The plea raised was that there is no sanctioned post of Senior Computer in the Central Electricity Authority (C.E.A.). The further plea raised was that the contention of the applicant that the duties of Comptometer Operators in the erstwhile C.W.P.C. (P.W.) and Junior Computer in the erstwhile C.W.P.C. (W.W.) were identical, is not correct. The duties and responsibilities of two posts were different. The two posts have different set of rules in the two wings. It was pleaded that consequent upon filling up of the post of SAS Accountant, the applicant was adjusted against the vacant post of Store Supervisor. As there was no sanctioned post of Senior Computer in C.W.P.C. (P.W.), now known as C.E.A., the question of grant of revised scale of Rs.425-700 w.e.f. 4.1.1974 to the applicant did not arise. It was further contended that the judgements of the Tribunal in the cases of B.S. SAINI & ANR VS. U.O.I. & ANR. and A.K. KHANNA & ORS. Vs. U.O.I. & ORS. were not applicable in the case of the applicant. On these pleas, it was prayed that the O.A. must fail.

We have heard Shri R.K. Kapoor, learned counsel for the applicant and Shri K.L. Bhandula, learned counsel for the respondents, and perused the material on the record. There is no dispute that originally the organisation which was controlling both the work of Water and Power was known as Central Water and Power Commission (C.W.P.C.).

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It had two wings, namely, Water Wing and Power Wing. Subsequently, in 1975, it had been bifurcated and re-named as Central Water Commission and Central Electricity Authority. The applicant was assigned to the latter organisation, namely, Central Electricity Authority.

It is true that those who had worked as Junior Computers in C.W.P.C. had avenues of promotion as Senior Computers in different scales, Rs.330-560 for 80% Senior Computers working in C.W.P.C. and Rs.425-700 for 20% Senior Computers. It so happened that there is no such post of Senior Computer in the C.E.A.

The applicant claimed that he should also be accorded the pay scale of Rs.425-700 as has been given to the Senior Computers in the Central Water Commission (C.W.C.) for he was performing the same sort of duties and bearing the same responsibilities as that was being done by Senior Computers in the C.W.C. His case further was that he made a representation in 1976. It had been turned down. But in view of the two decisions of the Tribunal in the cases of B.S. SAINI & ANR VS. UNION OF INDIA & ANR. and A.K. KHANNA & ORS. VS. UNION OF INDIA & ORS., he too was entitled to the same benefit as that given to the Senior Computers in the C.W.C.

The respondents' plea<sup>is</sup> that the applicant was aggrieved by an order dated 19.6.1976, when his request for being accorded to the pay scale of Rs.425-700 was rejected by the department. The applicant could not rake up the same matter in the year 1989 i.e. after 13 years. Neither repeated representations extend the period of limitations nor does it give a fresh cause of action.

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Further, there was no post of Senior Computer in the C.E.A. and as such the question of granting higher scale of pay to the applicant was not warranted.

Thus, principally the question that arises in this case is whether the applicant is entitled to the relief asked for; secondly, whether the O.A. is barred by limitation; and thirdly, whether the applicant can be given any relief in view of the fact that there does not exist any post of Senior Computer in the C.E.A.

It must be also mentioned that there is good deal of dispute as to the nature and duties of the work done by the applicant and those done by the Senior Computers in the C.W.C. Further, another aspect of the matter to be considered is whether the applicant can be given relief on the basis of two decisions in the cases of B.S. SAINI & ANR. VS. U.O.I. & ANR. and A.K. KHANNA & ORS. VS. U.O.I. & ORS. when these pertain to the cases of Senior Computers in the C.W.C. and not in the C.E.A. Lastly, whether the above two decisions give a cause of action for filing of the present O.A.

It is not in doubt that the applicant's quest for a parity in the pay scale as given to the Senior Computers in the C.W.C. viz., Rs.425-700, was rejected by an order dated 19.6.1976. He made further representation only after two decisions in the cases of B.S. SAINI and A.K. KHANNA (SUPRA). It is well settled that the cause of action means a bundle of essential facts, it is necessary for the party seeking relief to prove if traversed by the opposite party, in order to secure the relief prayed for. In the present case, the cause of action arose in 1976 when the applicant's prayer was turned down by the respondents by an order dt. 19.6.76./repre-<sup>Repeated</sup>

sentations do not extend the time for filing of the O.A., which has been clearly laid down in a decision of the Supreme Court in the case of S.S. RATHORE (AIR 1990 SC 10).

The question whether the decision of the Tribunal in another case to some other person similarly situated or not would give rise to a cause of action is extremely doubtful. The basis of proceeding in the Tribunal has always been on some order or some act of the Govt. which causes or affects the interest of the employee. In the present case, the decisions in the cases of B.S. SAINI and A.K. KHANNA (SUPRA) were in respect of Senior Computers of C.W.C. and not in C.E.A. The C.E.A. did not have such post. Thus, the question of decisions in favour of Senior Computers in the C.W.C. cannot be the cause of action for the applicant in this O.A. If it can be shown that they have been similarly treating and have similar recruitment rules, then the matter can be considered on the basis of equal pay for equal work and before the above principle is invoked, it is necessary that both the parties should have been functioning on an equal plane with an equal responsibility. If that was not there, the question of comparing them for the principle of equal pay for equal work cannot be invoked.

There is not an iota of doubt that the present case has been filed after 13 years rejecting his representation in 1976. Further, the fact that there was no post of Senior Computer in the C.E.A. surely affects the interest of the applicant for he cannot be given relief for a post which does not exist in the C.E.A. Thirdly, he cannot be given relief on the basis of decisions granting relief to some other parties who are in the C.W.C. and who were once the colleagues of the applicant in the C.W.P.C.

We are, therefore, of the view that this is one of those cases where the Tribunal can grant no relief to the applicant except to direct the respondents to consider the case of the applicant sympathetically for being promoted to the higher scale of Rs.425-700 and also consider whether a post can be created for the applicant as Senior Computer in the C.E.A. We have no doubt that the respondents would consider the matter and pass such other and further orders as may be deemed fit in the circumstances. With these observations, this O.A. is disposed of.

There will be no order as to costs.

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*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A) 11/7/91

*Amitav Banerji*  
1.7.91  
(AMITAV BANERJI)  
CHAIRMAN