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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 2207/89

.. Date of decision: 01.09.92

Sh. D.R. Gulati

.. Applicant

Sh. P.P. Khurana

.. Counsel for the applicant

Versus

U.O.I. & Ors.

.. Respondents

Sh. M.L. Verma

.. Counsel for the respondents.

CORAM

Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. S.N. Dhoundiyal, Member (A)

1. Whether the Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGEMENT(Oral)

(Delivered by Sh. P.K. Kartha, Vice Chairman (J))

We have heard the learned counsel for both parties and perused the relevant records of the case. The applicant, who has worked as Vehicle Mechanic in the Army Base Workshop, Delhi Cantt., has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for a direction to the respondents to pay to him the arrears of pay and allowance admissible from 1.12.65 to February, 1973 together with interest at the rate of 18% p.a. He has also prayed for grant of overtime allowance calculated on the basis of the higher pay for the said period.

2. The ld.counsel for the applicant submits that the case of the applicant is identical with that of Sh. Ramesh Kumar who had also filed OA 2596/89 in this Tribunal praying for similar reliefs. Shri Ramesh Kumar had worked as Vehicle Mechanic in the Army Base Workshop, Delhi Cantt.. OA 2596/89 was disposed by

judgement dated 6.9.91 with the directions to the respondents to extend the same benefit to the applicant as in the judgement of the Madhya Pradesh High Court dated 21.9.77. Accordingly, the respondents were directed to pay to the applicant the arrears of pay and allowances from 6.2.66 to 19.2.74 and overtime allowance calculated on the basis of the higher pay.

3. The ld.counsel for the respondents states that the application is barred under Section 20 of the Administrative Tribunals Act, 1985 and that the claim preferred by the applicant relating to the period from 1.12.65 to Feb.73 is barred under Section 21 of the Administrative Tribunals Act.

4. Similar preliminary objections had been raised by the respondents in Ramesh Kumar's case, which were repelled by the Tribunal in its Judgement dated 6.9.91.

5. In the instant case, the applicant was recruited on 1.9.62 as Vehicle Mechanic in the pay scale of Rs. 110-155/- in 505 Army Base Workshop, Delhi Cantt.. He worked there upto 1.12.65. Thereafter, he was transferred to Small Arms Factory, Kanpur on the ground of being rendered surplus. Though his last pay certificate showed the pay scale of Rs.110-155/- and he was allowed TA, DA and joining time as in the case of transfer, he was placed in the pay scale of Rs. 75-95/- in his new job. According to him, he has suffered in comparison to his similarly situated colleagues. Those who were not selected in the interview and remained behind at Delhi Cantt.Workshop continued to draw the pay

in the scale of Rs. 110-155/- and those who after transfer to Meerut Cantt. filed an application in the Labour Court, Jabalpur had secured an order for restoration of the pay scale of Rs. 110-155/-. The respondents, however, did not extend the benefit of this Judgement to him. He approached the Labour Court, Delhi which held that his application was not maintainable under Section 33(c)(2) of the Industrial Disputes Act vide its order dated 12.8.86. On 13.3.89, the Central Government (Ministry of Labour) rejected his application for referring the matter to the Industrial Tribunal. As the impugned order dated 13.3.89 was passed by the Central Government rejecting the application for referring the matter to the Industrial Tribunal, we hold that the period of limitation would count from that date.

6. In the case before the Labour Court, Jabalpur, the applicants had given their willingness to accept the lower scale in writing. Still the court made the following observations :-

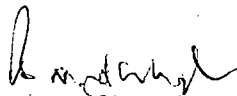
"In my opinion the applicants are entitled to get their salary at the scale which they were getting in their parent unit. If applicants were retrenched, then it was open for the management to enter into new contract attached to the term of employment. But in these cases these applicants were transferred to Jabalpur with a view that they may continue in service. But this does not change the position about their term of employment. Ex. D.1 simply shows that the applicant accepted the alternative appointment but there is no mention about the scale. The fact remains that the applicants were given alternative appointment and not new appointment. Thus, they are entitled for the wages at the scale which they were getting at 510 Army Workshop, Meerut."


7. The Govt. preferred a writ petition in the High Court of Madhya Pradesh against the order of the Labour Court and the High Court allowed the appeal. The workmen filed Special Leave Petition against the judgement of the High Court. The Supreme

Court remanded the case back to the High Court which upheld the order of the Labour Court by its Judgement dated 29.9.77. In our opinion, the respondents should have extended the benefit of the said Judgement to the applicant without forcing him to seek his remedies by filing an application in the Tribunal.

8. Following the ratio of the above judgement of the Madhya Pradesh High Court, we allow the present application as in the case of Ramesh Kumar mentioned above. Accordingly, we direct the respondents to pay to the applicant arrears of pay and allowances from 1.12.65 to February, 1973 and overtime allowance calculated on the basis of the higher pay-scale. The respondents are directed to comply with the above directions within a period of 3 months from the date of receipt of this order.

9. There will be no order as to costs.


(B.N. Dhoundiyal)
Member(A)


(P.K. Kartha)
Vice Chairman(J)