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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1941/88

New Delhi, this day of 31st January 1994

THE HON'BLE MR. J.P. SHARMA MEMBER (J)

THE HON'BLE MR. B.K. SINGH, MEMBER (A)

Shri P. Subbaraman,
Personal Assistant,
Legislative Department,
Ministry of Law & Justice,
Shastri Bhawan,
New Delhi-110 001.

... Applicant

(By Advocate Shri M. Chandersekharan)

Versus

The Union of India through
The Secretary,
Legislative Department,
Ministry of Law and Justice,
Shastri Bhawan,
New Delhi-110 001.

... Respondent

(By Advocate Shri P.H. Ramachandani)

ORDER

HON'BLE MR. J.P. SHARMA, MEMBER (J)

The applicant who has since retired from service while working as Personal Assistant in the Legislative Department, Ministry of Law and Justice filed this application in October aggrieved by the order dated 14.6.1988 and 25.8.1988 by which the representation of the applicant dated 23.12.1987 was rejected. The applicant has prayed for the grant of the relief that direction be issued to the respondents to fix the initial pay of the applicant at Rs. 660/- under FR 22(c) in terms of the representation and grant of all consequential benefits alongwith interest.

2. The facts of the case as detailed in the application are that the applicant while holding permanent post in the Central Secretariat Clerical Services was appointed to the ex-cadre post of Stenographer in the scale of

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Rs. 210-425 (Revised to Rs. 425-700) in the Vidhi Sahitya Prakashan, of the Legislative Department with effect from 18.11.1968. The applicant ~~had~~ opted for the scale in the ex-cadre post and not for the grant of the deputation allowance. In view of this the applicant's pay was fixed at Rs. 270/- per month. The applicant continued in that post upto 30.6.1976. The applicant was, however, appointed to Grade III of the Central Secretariat Stenographer Service in the grade of Rs.330-560/- with effect from 1.8.1969 and made substantive in his appointment with effect from 12.8.1971 in July 1976. The applicant was promoted to officiate as Personal Assistant in the parent department (Grade C of the Central Secretariat Stenographer Service) Rs. 425-800/- and has been continuing in the said post. However, on his appointment to the post of Personal Assistant his initial pay was fixed at Rs. 445/- by the order dated 20.4.1979. The grievance of the applicant is that his initial pay as on 1.1.1976 was fixed not with reference to the pay drawn by the applicant in the ex-cadre post of Stenographer in the Vidhi Sahitya Prakashan but with reference to the notional pay of Rs. 428/- as on 1.9.1975, in the substantive post in Grade III of the Central Secretariat Stenographer Service. The applicant has sought also the implementation of the judgement in Bhadur Chand Bhatia Vs. Union of India 1987(3) ATC P. 164. The applicant also made representation in 1987 that the benefit of the said judgement be given to him. The applicant has also referred to the judgement in the case of R.S. Murthy and Shri P.C. Kannan Vs. Union of India decided on 4.7.1988 in which the earlier judgement referred to above has also been relied upon. The respondents by their impugned order dated 25.8.1988 rejected

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the claim of the applicant for refixation of pay and hence the present application.

3. The respondents in their reply contested the application stating that the initial pay of the applicant was fixed under FR 22(c) with reference to his pay in the post of Stenographer Gr. III and that is the only provision applicable to him. His pay cannot be fixed with reference to the pay drawn by him on the ex-cadre post of Stenographer in Vidhi Sahitya Prakashan of the Legislative Department. Regarding the cases referred to by the applicant it is stated that SLP has been filed before the Hon'ble Supreme Court.

4. We have heard the learned counsel of the parties at length and perused the record. Firstly, we find that the present application is hit by the limitation. The applicant has gone on deputation to ex-cadre post in Vidhi Sahitya Prakashan and he also opted for the scale in the ex-cadre post. The applicant initially was appointed in the Gr. III in the Central Secretariat Stenographers' Service with effect from 1.8.1969 and he was also regularised in that appointment with effect from 12.8.1971. The applicant came back to the parent department and officiated as Personal Assistant in the grade of Rs. 425-800 with effect from 1.1.1976. He wants fixation of pay with effect from 1.1.1997 taking into account the pay drawn by him on the ex-cadre post. The application has been filed in October 1988. There is no application for condonation of delay. Merely because the applicant had made representations one after the other will not benefit the applicant.

5. It has been held in the case of State of Punjab Vs. Gurdev Singh 1991 (4) SCC P. 1 that in service matters the aggrieved party has to approach the Tribunal within

time provided in statute. Again in the case of S.S. Rathore Vs. State of Madhya Pradesh AIR 1990 SC P 13 the repeated representation do not add to limitation.

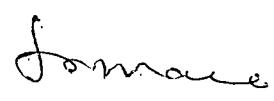
6. However, we have heard the learned counsel on merit also but we find that the applicant has no case. The pay of the applicant while he came back to the parent department was correctly fixed notionally in the Grade 'C' of Central Secretariate Stenographers Service at Rs.455/- Regarding the authorities cited by the applicant there is a decision of the Full Bench reported in O.A. No. 553/88 decided on 7.11.1989 in the case of R.P. Upadhyay Vs. Union of India. Where the above referred decision has been considered. The contention of the learned counsel of the applicant that the SLP has been dismissed by the Hon'ble Supreme Court of the judgement passed in the case of Bahadur Chand Bhatia will not help his case. It is not a binding precedent because the Hon'ble Supreme Court did not lay down any law on the point while rejecting the SLP. In the case of Hari Singh Vs. State of Haryana 1993 JT Vol. (3) P 73 it is held by the Supreme Court that doctrine of precedent is not applicable in the case of rejection of SLP. A similar view has been taken by the Hon'ble Supreme Court in the case of Suresh Chand Gautam Vs. Union of India 19 ATC P.664.

7. The matter has since been considered by the Full Bench and the provisions of FR 22(c) can only be applied on appointment on the substantive post from the feeder post which is in the case itself. The emoluments drawn by the applicant on the ex-cadre post cannot be taken into account in fixing his pay on reversion to the parent department. The respondents have given in Annex.V

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the matter of fixing pay of the applicant in the order dated 20.4.1979. This shows that the pay of the applicant has rightly been fixed under FR 22(c). The impugned order, therefore, of rejection does not call for any interference. The application is devoid of merit and is dismissed as hitherto limitation has well as costs on merit. Costs on parties.


(B.M.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

Mittal