

(52)

In the Central Administrative Tribunal
Principal Bench, New Delhi.

Regn. No. OA-838/88

Date: 17.9.1993

All India Customs Appraising Applicants
Officers' Federation through
the General Secy. and Another

Versus

Union of India & Another Respondents

For the Applicants Shri M.A. Krishnamoorthy,
Advocate

For the Respondents

CORUM: Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

1. To be referred to the Reporters or not?

JUDGEMENT (ORAL)

(By Hon'ble Mr. J.P. Sharma, Member)

The applicant No.1 is the Federation of Appraisers
(Promotees) and Examiners working in various Customs
Collectorates under C.B.E.C., Ministry of Finance. The
applicants, in this application, have prayed that they
should be given the benefit of the pay-scales granted to
the Income Tax Inspectors as well as Inspectors of Excise
and Customs for the period from 1.1.1980 to 31.12.1985 in
the pay-scale of Rs.500-900 while actually they have been
paid in the scale of Rs.425-800. The applicants have,
therefore, claimed for the grant of relief for a direction

.... 2...


to the respondents to pay the Examiners the scale of Rs.500-900 for the period from 1.1.1980 to 31.12.1985.

2. A notice was issued to the respondents, who contested the application and denied the grant of the reliefs on the ground that the application is hit by the law of limitation and also that the applicants are not entitled to raise this issue now, when the recommendations of the Fourth Pay Commission have already been implemented and the applicants have also been placed in the same scale of pay, i.e., Rs.1600-40-2900, which has been given to the Inspectors of Income Tax and Inspectors of Central Excise.

3. Since this is an old case and had already been notified for hearing, we waited in the pre-Lunch session for the learned counsel for the applicant, but none appeared at that time. We have taken the matter after Lunch and neither the counsel for the applicants nor the respondents are present. The learned counsel for the respondents, Shri P.P. Khurana, has argued the case on behalf of the respondents. In view of this fact, we have gone through the pleadings and the material on record and dispose of the application on merits.

4. It is not disputed that Inspectors of Income Tax, Preventive Officers/Examiners of Customs and Inspectors of Central Excise were, at the time of Second Pay Commission's recommendations, placed in the scale of Rs.210-485. However,

(2)

in 1969, the pay-scale for the posts of Inspector of Central Excise was upgraded to Rs. 210-425. The Third Pay Commission recommended also the parity in the scales of pay for all the four grades of officers and its recommendation of a uniform scale of Rs. 425-800 was accepted by the Government and enforced. However, the Income Tax Inspectors raised the issue departmentally which was referred to the Board of Arbitrators to give the award, recommending for raising the scale of the post of Income Tax Inspector to Rs. 500-900 w.e.f. 1.1.1980. On this, the Inspectors of Central Excise also represented to the department for getting the similar benefit, but that was not acceded to. A writ petition No. 608/84 was filed by the Central Excise & Customs (Non-Gazetted) Officers' Association and another in the High Court of Rajasthan which was transferred to the C.A.T., Jodhpur, registered as TA-609/86 and was decided by the order dated 13.4.1987, a copy of which is at Annexure-I of the application. The Bench, in its judgement, accepted the contention of the petitioners of that case, directing the respondents to grant parity of pay to those petitioners with that of Inspectors of Income Tax, placing them in the same scale of pay w.e.f. 1.1.1980 and also ordered for grant of arrears from 1.1.1980 to 31.12.1985. It may be recalled that this judgement was delivered after the

enforcement of the Fourth Pay Commission's recommendations.

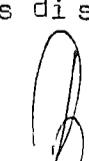
5. The case of the applicants is that they are discharging the same and similar duties and shoulder equal responsibilities compared to the Inspectors of Central Excise and Income Tax. Their qualifications are also similar to those who are selected and appointed to the above posts of Inspector of Income Tax and Central Excise. They are also under the same Ministry of Finance. Thus, they have claimed the benefit of the judgement of the Jodhpur Bench as well as the recommendations of the Board of Arbitration appointed by the Department on the representation of Inspectors of Income Tax.

6. We have considered the matter in the above circumstances and find that the applicants did not approach for redress of their grievance within a reasonable time. In fact, the judgement of the Jodhpur Bench was delivered on a transferred writ petition from the High Court of Rajasthan which was filed in 1984. In view of this fact, this judgement will not give them any fresh cause of action. The cause of action in their case, according to their own showing, commenced from the grant of higher scale of pay to the Inspectors of Income Tax on the recommendations of the Board of Arbitration w.e.f. 1.1.1980. The averment made in the application that the applicants made the representation

in July, 1987 and January, 1988, does not bring the matter within limitation. At that point of time, the applicants had already been equated in grant of pay-scales to the Inspectors of Income Tax and Central Excise. In fact, the present application has been filed in May, 1988.

7. Even if it is taken for granted that the applicant has a right of equation of pay with Inspectors of Income Tax and Central Excise, then that right stands defeated by delay and laches for which the applicants themselves are to blame. The delay defeats a right and also the remedy available under law.

8. In view of these facts and circumstances and also keeping in view the decision of the Hon'ble Supreme Court in the case of State of Punjab Vs. Gurdev Singh reported in 1990 (4) SCC 1, where it has been held that even in service matters, the aggrieved party has to approach for redressal of the grievance within limitation. Section 21 of the A.T. Act lays down provisions of Limitation Act which are self-contained and prescribes a period of limitation. In view of the above facts and circumstances, we find that the application is barred by limitation and is dismissed, leaving the parties to bear their own costs.


(B.K. Singh)
Member (A)


17.9.93
(J.P. Sharma)
Member (J)