

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(9)

O.A. No.
T.A. No.

343

1986

DATE OF DECISION 16th April, 1987

Shri V.K.Saldhi & Ors.

Petitioner

Shri I.C.Kumar

Advocate for the Petitioner(s)

Versus

Secretary, Deptt. of Food, Respondent
Krishna Bhavan, New Delhi & Ors.

Mrs.Raj Kumari Chopra

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.S.Puttaswamy

Vice Chairman

The Hon'ble Mr. Birbal Nath

MEMBER (AM)

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

yes

no

Mr. Justice
(K.S.PUTTASWAMY)
VICE CHAIRMAN
16-4-87

(P)
(BIRBAL NATH)
MEMBER (AM)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Dated: 16th day of April, 1987.

Present

THE HON'BLE MR. JUSTICE K.S.PUTTASWAMY VICE CHAIRMAN
THE HON'BLE SHRI BIRBAL NATH MEMBER (AM)

ORIGINAL APPLICATION No. 343 OF 1986

Shri V.K.Saldhi
and others,
Field Investigators,
Dept. of Food. .. Applicants.

(By Shri I.C.KUMAR, Advocate for the applicants)

-vs.-

Secretary, Deptt. of Food,
Krishi Bhawan, Newdelhi & ors. Respondents.

(By Mrs. Rajkumari Chopra, Adv. for the respts.)

This application coming on for hearing this
day, PUTTASWAMY, J. (Vice-Chairman), made the following:

ORDER

This is an application made by the applicants
under Section 19 of the Administrative Tribunals Act,
1985 ('Act').

2. The applicants are working as Field Investigators
in the Department of Food of the Ministry of Food and
Civil Supplies, Government of India, from different
dates. They claim that the minimum qualifications
prescribed for the said posts and the duties performed
by them, were equal to the qualifications prescribed
and the duties performed by the Field Investigators
of the National Sample Survey Organisation (NSSO) of
the Department of Statistics and Planning of Govern-
ment of India, who for some inexplicable reasons, are
allowed higher scales of pay and their claim for such

scales of pay for the period from 1-5-1982 to 31-12-1985, had been denied by the respondents in violation of Article 14 of the Constitution. Their claim for equal pay with that of the Field Investigators of NSSO had been accepted by the IV Pay Commission and by Government from 1-1-1986. But, notwithstanding the same, the respondents have declined to remedy their claim from 1-5-1982 to 31-12-1985. Hence, this application only for that period.

3. In their reply, the respondents have urged that there was no order made against the applicants and without an order thereto, they cannot maintain this application before this Tribunal. The respondents have stated that the pay scales of Field Investigators had been recommended at Rs.1400-2300 by the IV Pay Commission. Both sides do not dispute that the recommendation of the IV Pay Commission had been accepted and necessary orders made by Government from 1-1-1986, without disputing that the qualifications and work performed by the applicants was equal to the qualifications and the work performed by the Field Investigators of NSSO, the respondents have resisted this application.

4. Shri I.C.Kumar, learned Counsel for the applicants, contends that the work of the applicants as Field Investigators, was equal to the work performed by the Field Investigators of NSSO in all respects and therefore the denial of the time scale or pay extended to the latter from 1-5-1982 to 31-12-1985 was plainly discriminatory and was violative of Article 14 of the Constitution.

5. Mrs. Raj Kumari Chopra, learned Counsel for the respondents, in refuting the contentions of Shri Kumar, contends that in the absence of an order made against the applicants, they cannot maintain this application under the Act. In the very nature of things, it is necessary to deal with this objection first and then the merits if that becomes necessary.

6. As noticed earlier, the claim of the applicants has been acceded to by the respondents only from 1-1-1986 and not for the period from 1-5-1982 to 31-12-1985, which is the position even to-day and the same is even now resisted by the respondents. In other words, the respondents have refused the claim of the applicants for the period from 1-5-1982 to 31-12-1985 with which only we are now concerned. When a claim is either expressly or impliedly refused; for whatever reason may be, then there is necessarily an order to that effect.

7. The term 'Order' occurring in Section 19 of the Act, must be construed liberally. When so construed, it is clear that on the implied refusal to accede to the claim of the applicants for the period from 1-5-1982 to 31-12-1985, there is an order made against them within the meaning of the term 'Order' occurring in Sec.19 of the Act. If that is so, then this application made under Sec.19 of the Act, is undoubtedly maintainable. For all these reasons, we see no merit in this objection of the respondents. We therefore proceed to examine the merits.

8. The claim of the applicants that their qualifications and work are equal to that of the Field Investigators of the NSSO had been recognised by the IV Pay Commission as also by the Government from 1-1-1986. From this, it follows that the claim of the applicants was equal to that of Field Investigators of the NSSO for the period from 1-5-1982 to 31-12-1985, has necessarily to be accepted and then other questions decided on that basis only.

9. When once we ~~find~~ ^{find} that the applicants were equal to the Field Investigators of the NSSO, then their claim for equal pay as extended to the Field Investigators of NSSO except for the question of limitation is completely concluded by the ruling of the Supreme Court in Ranbir Singh -vs.- Union of India and others, 1982(1) SLJ 490. We must now examine only the question of limitation under the Act and urged by the respondents.

10. In Ranbir Singh's case, the Supreme Court was dealing with a petition made by Ranbir Singh under Article 32 of the Constitution. In a proceeding under Article 32 of the Constitution, or in a proceeding under Article 226 of the Constitution, there was and there is no period of limitation prescribed under the Constitution. In the absence of a period of limitation, the Supreme Court under Article 32 of the Constitution, and the High Courts under Article 226 of the Constitution, are competent to grant reliefs in their discretion for any period as they may think necessary on the facts and circumstances of the case. But, that is not the position under the Act.

11. The Act prescribes period of limitation for adjudication of claims before the Tribunals. Hence, the Tribunals constituted and functioning cannot ignore those periods.

12. Section 21 of the Act, prohibits the Tribunals to adjudicate claims arising prior to 1-11-1982. Hence, the claim of the applicants for periods prior to 1-11-1982 cannot be allowed by us.

13. If the applicants had approached an ordinary Civil Court, then they cannot have recovered arrears prior to 20-5-1985. We, therefore, consider it proper to accept the claim of the applicants for the revised scales of pay of Rs.425-700 from 1-6-1983 to 31-12-1985.

14. In the light of our above discussions, we direct the respondents to extend the time scale of pay of Rs.425-700 to all the applicants from 1-6-1983 to 31-12-1985.

15. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

Ms. Puttawamy
(K.S.PUTTASWAMY) 16-4-87
VICE CHAIRMAN.

B 164(87)
(BIRBAL NATH)
MEMBER (AM)