

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1521/1987. DATE OF DECISION: 24-10-1991.

Manoranjan Biswas Applicant.

V/s.

Union of India & Ors. Respondents.

CORAM: Hon'ble Mr. T.S. Oberoi, Member (J)
 Hon'ble Mr. P.C. Jain, Member (A).

Shri S.K. Bisaria, counsel for the Applicant.
Shri M.L. Verma, counsel for the Respondents.

P.C. JAIN, MEMBER: JUDGMENT

The applicant was initially appointed as a Forester in the Dandakaranya Project at Orissa. On 3.2.1978, he was promoted to the post of Deputy Ranger on an ad-hoc basis initially for a period not exceeding six months (Annexure-1). He was made regular with effect from 1.4.83 by Office Order dated 17.5.83 and placed on probation for a period of two years (Annexure-2). He was declared surplus from the Project with effect from 1.8.1986 and was put in the Central (Surplus Staff) Cell with effect from that date. He was released from the roll of the above Cell on 15.12.86 for being posted as L.D.C. in the office of Senior Administrative Officer (E), Directorate General, I.T.B. Police, Block No.2, C.G.O. Complex, New Delhi. By this application under Section 19 of the Administrative Tribunals Act, 1985, he has prayed for a direction to the respondents to give him the scale of pay of Rs.290 - 560 since his appointment as Deputy Ranger and also to fix his salary on re-deployment in the grade of Rs.1200 - 2040.

2. The respondents have contested this application by filing a return and the applicant has also filed a rejoinder thereto. We have carefully perused the material on record and also heard the learned counsel for the parties.

3. The respondents have raised two preliminary objections. Firstly, they stated that respondents No.2 to 4, i.e., (1) Additional Secretary (Rehabilitation Division), Ministry of Home Affairs, (2) Chief Administrator, Dandakaranya Development Authority, and (3) the Director General, ITBP Central Record Office, are neither necessary nor proper parties, and thus the application is bad for misjoinder thereof. We do not see much force in this objection inasmuch as the applicant was absorbed after being declared surplus from the Dandakaranya Project in the ITBP Central Record Office and he has also prayed for refixation of his pay in the post held by him in that office. Accordingly, respondent No.4 is a proper party. The Dandakaranya Development Authority is also a proper party inasmuch as the applicant had made representations to them and the impugned order dated 22.10.1986 (Annexure-5) has been issued by the Dandakaranya Development Authority. However, it is true that once the Union of India through Secretary, Ministry of Home Affairs, New Delhi had been arrayed as respondent No.1, it was not necessary to implead the Additional Secretary of the same Ministry as a separate respondent. However, as the O.A. was admitted after hearing the learned counsel for the respondents, we are not inclined to reject the O.A. on this ground at this stage. The second preliminary objection is that the O.A. is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. In his rejoinder to this objection, the applicant has only submitted "that the petitioner is very much within time". He has not tried to show as to how it is within limitation. Admittedly, the applicant was promoted as Deputy Ranger vide Office Order dated 3.2.1978. The pay scale of that post and which was allowed to him on such promotion was

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Rs.320 - 400. The applicant has prayed for a higher pay scale with effect from the same date. Though the pay scale of Rs.320 - 400 for the post of Deputy Ranger in the Dandakaranya Project was fixed on the recommendation of the Third Central Pay Commission and became effective from 1.1.1973, the cause of action to the applicant, however arose on or about 3.2.1978 when he was first promoted and appointed to that post. He appears to have made his first representation in September, 1980 followed by representation dated 30.11.82, 1.12.82, 13.7.83, 13.3.84, 14.2.85 and 11.9.86. With reference to the representation dated 11.9.86, he was informed that the matter regarding revision of pay scale for the post of Deputy Ranger to Rs.290-560 had been taken up with the Government and also with the Fourth Pay Commission and that it lacked justification because of dis-similar educational qualifications etc. His request, therefore, could not be acceded to. It is well settled that repeated representations do not have the effect of extending limitation (GIAN SINGH MANN Vs. HIGH COURT OF PUNJAB & HARYANA AND ANOTHER - 1980(4) SCC 266); S.S. RATHORE Vs. STATE OF MADHYA PRADESH - AIR 1990 SC 10). The applicant has claimed relief from February, 1978. He appears to have represented for the first time in September, 1980. If there was no reply to his representation/request, he should have approached the court of competent jurisdiction within the limitation prescribed under the Limitation Act. He did not take any ^{such} action. The cause of action in regard to the higher scale of pay in the post of Deputy Ranger having arisen prior to three years before the appointed date under the Administrative Tribunals Act, 1985 i.e., three years prior to 1.11.1985, the Tribunal has no jurisdiction in the matter (V.K. MEHRA Vs. SECRETARY, MINISTRY OF INFORMATION & BROADCASTING, NEW DELHI - ATR 1986 (1) CAT 203; SUKUMAR DEY Vs. UNION OF INDIA - (1987) 3 ATC 427 (CAT)(CALCUTTA); V.S. RAGHAVAN Vs. SECRETARY,

MINISTRY OF DEFENCE (1987) 3 ATC 602 (CAT)(MADRAS).

The respondents have also filed a copy/^{each}of the judgment dated 24.7.1987 delivered by the Cuttack Bench of the CAT in the case of BHARAT CHANDRA SWAIN Vs. UNION OF INDIA & OTHERS (Annexure R-1) and judgment dated 5.10.1987 by the Bangalore Bench of the CAT in the case of P.V. PURUSHOTHAMAN Vs. THE CHIEF ADMINISTRATOR, DANDAKARANYA DEVELOPMENT AUTHORITY & TWO OTHERS (Annexure R-1(A) in support of their objection of bar of limitation. We are, therefore, of the considered view that the relief prayed for in regard to the grant of the scale of Rs.290-560 to the applicant since his appointment as Deputy Ranger from February, 1978 is hopelessly time-barred.

4. Apart from the limitation, it may also be stated that on merits too, the applicant has no case. The respondents, in their reply, have stated that the post of Deputy Ranger in Dandakaranya Project, before the recommendation of the Third Central Pay Commission, carried the scale of Rs.120 - 180, which was revised to Rs.320 - 400 by the Third Pay Commission as per their recommendation in paras 42 to 47, Table XVI of Chapter 33 of Volume-II (Part II) of their Report. Thus, the scale of Rs.320 - 400 for the post of Deputy Ranger held by the applicant was based on the recommendation of the Third Pay Commission. The request of the Dandakaranya Project for revision of the pay scale to Rs.290 - 560 taken up with the Ministry of Labour and Rehabilitation was rejected by the Government vide their letter dated 9.12.1983. The matter was also referred by the Project Authorities to the Fourth Pay Commission. The Fourth Pay Commission also did not recommend a scale corresponding to Rs.290-560 for the post held by the applicant. In this background, when the matter has been considered twice by an expert body such as the Pay Commission, no intervention is called for by the Tribunal in the process of judicial review (STATE OF U.P. & OTHERS Vs. J.P. *Ch*

CHAURASIA & OTHERS - AIR 1989 SC 19).

5. Learned counsel for the applicant urged the doctrine of 'equal pay for equal work' and stated that not only the duties of the post held by the applicant and of the post of Deputy Ranger in the Ministry of Agriculture in "Pre-Investment Service of Forest Resources and in Forest Survey of India" are the same, but the qualifications prescribed are also the same. The applicant has, however, not placed any material on the record to substantiate this contention. Neither the recruitment rules for these posts have been brought on record, nor the comparative duties of posts under various Departments have been filed. The onus in this regard squarely lay on the applicant particularly when the respondents in para 6(c) of their reply had stated that "There is also nothing on record to show that the duties and responsibilities and the recruitment qualifications for the post of Deputy Ranger is same in both the organisations viz. Pre-investment Survey of India and Dandakaranya Project." The doctrine of 'equal pay for equal work' has actual application in terms of the provisions of Article 14 of the Constitution of India. Needless to say that the principle of 'equal pay for equal work' will be applicable only to those who are equally placed. The applicant has completely failed to establish this.

6. The other part of the relief for fixation of pay on re-deployment after being declared surplus is purely contingent on the pay scale of the post of Deputy Ranger being revised; it does not stand separately.

7. In the light of the foregoing discussion, we find that apart from the relief prayed for being barred by limitation, the O.A. is also devoid of any merit and the same is accordingly dismissed, leaving the parties to bear their own costs.

(P.C. JAIN) / 19/5/1
Member(A)

(T.S. OBEROI)
Member (J)