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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 256/87

17.08.1992

SHRI H.N. HALDAR & ORS.

...PETITIONERS

VS.

UNION OF INDIA & ANR.

...RESPONDENTS

CORAM :

HON'BLE SHRI I.K. RASGOTRA, MEMBER (A)

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

FOR THE PETITIONERS

...PETITIONER NO. 4 IN PERSON

FOR THE RESPONDENTS

...SHRI P.P. KHURANA

1. Whether Reporters of local papers may
be allowed to see the Judgement?

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI I.K. RASGOTRA, MEMBER (A))

S/Shri H.N. Haldar, K.S. Karmy, B.K. Chakraborti, Lajpat Rai, the petitioners in this OA have claimed the benefit of the judgement of the Madras Bench of the Central Administrative Tribunal in TA 382/86 (CWP 3756/84) decided on 2.5.1986. The operative part of the said judgement reads as under.

"We direct that the pay of the twelve petitioners if they opt for the scale of Rs.380-560, i.e., for posts involving scientific nature of duties, may be fixed notionally in the scale of Rs.380-560 as on 1.1.1973, and the pay as arrived at on 13.10.1983, may be made admissible to them, without payment of arrears for the period prior to 13.10.1983. The case is disposed of accordingly."

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The relief prayed for by the four petitioners in this OA is that a direction be issued to the respondents to fix their pay as Senior Observer in the revised scale of Rs.380-560 effective from 1.1.1973 with arrears right from 1.1.1973 upto date with all consequential/subsequential benefits with arrears throughout with interest in cash. The petitioners, therefore, are seeking relief beyond the judgement of the Madras Bench which allowed the notional fixation in the pay scale of Rs 380-560 w.e.f. 1.1.1973, but actual payment only from 13.10.1983. Petitioner No.4 in the OA before us filed a copy of the Office Order issued by the respondents dt.2.9.1988 according to which the petitioners herein have also been fixed in the pay scale of Rs.380-560 notionally. The said Office Order is reproduced below :-

"Consequent on Govt. decision to revise the pay scale of Senior Observer from Rs.300-10-380-12-500-EB-15-560 to Rs.380-12-500-EB-15-560 notionally with effect from 1.1.1973, without payment of arrears prior to 13.10.1983, the pay of the persons (as per statement enclosed) who held the post of Senior Observer in the scale of Rs.300-560 on or after 1.1.1973 (But before 13.10.1983) has been refixed notionally on 1.1.1973 or date of joining as Sr Observer, if joined later, as indicated in the Table (enclosed).

Subsequently their pay fixed on short term/regular promotion if any, and pay fixed on 1.1.1986 or date of option under CCS(RP) Rules, 1986 stands refixed in supersession of order issued earlier to this effect.

ARREARS ARE ADMISSIBLE W.E.F. 13.10.1983 ONWARDS ONLY.

This has been approved by the competent authority."

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It is observed that this order was issued subsequent to the filing of this OA in 1987. Accordingly the ground for agitating the matter namely discrimination between those who approached the Madras Bench of the Central Administrative Tribunal and obtained relief and those who were not parties to that matter no longer survives. The OA therefore in our opinion is devoid of merit.

After the judgement in this case was dictated, the learned counsel for the petitioners, Shri D K. Rastogi appeared in the court and prayed that he may be heard as he has to argue certain other points besides what has been taken into consideration by the court. He could not be present in the Court at the time when the matter was heard due to his preoccupation in the High Court. He, however, came to the Tribunal at the earliest possible opportunity to argue the matter. We, therefore, gave the indulgence to the learned counsel for the petitioners to put forth his arguments. The thrust of the arguments put forth by the learned counsel is that once the principle of equal pay for equal work for equal work has been accepted, the petitioners have to be paid the pay in the scale of pay of Rs.380-560 from 1.1.1973 to 12.10.1983 with arrears and not notionally from that date. He, therefore, submitted that the Fundamental Rights of the petitioners cannot be in any manner compromised by an arbitrary decision by choosing a date from which the arrears would be paid after fixing the petitioners notionally w.e.f. 1.1.1973. We have taken into consideration the arguments put



forth by the learned counsel for the petitioners. The issue pressed by the learned counsel is limited to obtaining the arrears of salary and allowances w.e.f. 1.1.1973 to 12.10.1983. However from the record it is observed that the petitioners in their representation to the department had not agitated the claim for arrears, but had only claimed their placement in the scale of pay of Rs.380-560 from 13.10.1983 in accordance with the judgement of the Madras Bench of the Tribunal. They have nowhere raised the issue of payment of arrears in their representation. Even after the judgement of the Madras Bench was pronounced, no representation was made to the respondents to claim the arrears from 1.1.1973. The pleadings in the OA are also directed towards achieving the extension of the benefit of the judgement of the Madras Bench of the Tribunal although the relief, prayed for, includes the claim for payment of arrears. In that view of the matter, the claim for 1.1.1973 to 13.10.1983 is a stale and highly belated, which has not ever been agitated by way of availing of the departmental remedy. The issue also, is in our opinion time barred as the claim relating to the period 1973 to 1983 has been agitated by the petitioners only in 1987. The Hon'ble Supreme Court in a very recent judgement, in the case of Bhoop Singh Vs. Union of India & Ors., Judgement Today 1992(3) SC 322 in more or less similar circumstances as obtaining in the present case has observed that "inordinate and unexplained delay or latches by itself is a ground to refuse the reliefs to the petitioner irrespective of the merits of his claim." We are, therefore, not inclined to go

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into the merits of the case and are of the view that the claim as pressed before us for payment of arrears is highly belated and time barred. Accordingly, we hold that the OA has become infructuous, as the benefit accruing from the judgement of Madras Bench of the Tribunal has been extended to the petitioners, and that the claim for payment of arrears from 1.1.1973 to 12.10.1983 is barred by limitation and suffers from laches. Accordingly the OA is dismissed. No costs.

J. P. Sharma

(J.P. SHARMA)

MEMBER(J)

17.8.82

I. K. Rasgotra

(I.K. RASGOTRA)

MEMBER(A)