

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-270/87

Date: 7.6.1989.

Shri S.C. Dass

.... Applicant

Versus

Union of India

.... Respondents

For the Applicant

.... Shri R.L. Sethi, Advocate

For the Respondents

.... Shri M.L. Verma, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri M.M. Mathur, Administrative Member.

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

2. To be referred to the Reporter or not? *Yes*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who retired as an Assistant from
All India Radio, New Delhi, on superannuation on 28.2.1979,
filed this application under Section 19 of the Administrative
Tribunals Act, 1985 praying for the following reliefs:-

- (1) that he be deemed to have been appointed
as U.D.C. (Scale Rs.80-220) on the
recommendation of First Pay Commission
w.e.f. 1.1.1947;
- (2) that he be paid salary and allowances for
the post of U.D.C. and arrears from 1.1.1947;
- (3) that his name should be included in the
seniority list of UDCs and he be given
promotions to the higher posts of Assistant,
Section Officer and Under Secretary, etc.,
as may be due to him on account of his being
U.D.C. w.e.f. 1.1.1947; and
- (4) that he may be given salary and allowances
and arrears of higher posts as might accrue
to him after promotion as consequential
benefits.

2. The case of the applicant, in brief, is as follows. He was appointed as Grade 'B' Clerk in the scale of Rs.60-120 in the office of the Directorate General of Disposals on 29.7.1946. The First Pay Commission set up in 1947, redesignated clerical posts, with the revised pay scale as follows:-

<u>Old post scale</u>	<u>Revised post scale</u>
(i) Grade 'A' Clerk 100-200 Assistant	Rs.160-450
(ii) Grade 'B' Clerk 60-120 UDC	Rs. 80-220
(iii) Grade 'C' Clerk 45-75 LDC	Rs. 55-120.

3. The above recommendations were accepted and implemented by the Government.

4. Some persons holding posts of Grade 'B' Clerks, including the applicant, were not redesignated as UDCs and they were given lower appointment as L.D.C. This was challenged in the Bombay High Court in Writ Petition No. 890 of 1979 (Smt. Malini Dhanje and Others Vs. Union of India) and the Court, by its judgement dated 23.7.1979, held as follows:-

"We, therefore, hold that each one of the petitioners should have been equated to Upper Division Clerks' posts as from 1.1.1947 and their subsequent increments duly adjusted on that footing. The claim in the writ petition thus deserves to be fully granted and the rule made absolute in terms of prayer(s).

5. We may, however, further give clear directions that the respondents will place the petitioner in the Upper Division Clerk's Grade w.e.f. 1.1.1947 and make immediate adjustments and accounts on that footing within a period of next four months from today. Not only the pay of these petitioners who are today serving with the Government of India but the question of revised pay and Pensions of those who have retired on the basis of the new scales of pay be fixed within the same period."

5. In compliance with the above mentioned judgement, the Ministry of Works & Housing issued a letter dated

Oy

....3...,

23.4.1984 conveying sanction of the President to the fixation of pay in the grade of U.D.C. and payment of arrears as a result of such fixation to six former Grade 'B' Clerks of the C.P.W.D. On 4.4.1986, the Minister of State in the Ministry of Finance stated on the floor of Lok Sabha as follows in reply to an Unstarred Question No.5265:-

"On the basis of a judgement of Bombay High Court delivered on 23.7.1979 in Malini Dhanji Pingle's Writ petition No.890 of 1979, the erstwhile 'B' Grade Clerks of the Textile Commissioner's office who were in the scale of Rs.60-120 prior to 1.1.47 and had been placed in the scale of Rs.55-130 with effect from 1.1.47 on the basis of the recommendations of First Pay Commission, were placed with effect from 1.1.47 in the scale of Rs.80-220 applicable at that time to the post of Upper Division Clerks in the Central Government Offices. While no general orders have been issued in this regard, each such case of 'B' Grade Clerk working in other Central Government Departments/Offices, for according similar benefit is considered on merits on reference from concerned Departments/Offices."

6. The applicant sent representations to the respondents on 24.9.1982, 10.6.1986 and 12.12.1986 but the respondents did not give him the benefit of the same judgement.

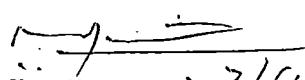
7. The respondents have contended in their counter-affidavit that the application is not maintainable on the ground that it is barred by limitation. They have further contended that they examined his case in consultation with the D.G.S.&D., Ministry of Finance, and Department of Personnel & A.R. According to the instructions issued by the Department of Personnel, the benefit of the judgement of the Bombay High Court will be admissible to those 'B' Grade Clerks who were working as such on 1.1.1947 in a subordinate office in the unified scale of Rs.60-120 and Rs.80-120. As he was not working in a subordinate office on 1.1.1947, he was not entitled to the benefits. He was working in an "attached office" at that time.

7. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. We are not impressed by the contention raised by the respondents on the question of limitation. The Supreme Court has held that when a citizen aggrieved by the action of a Government department has approached the Court and obtained declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievance to Court (vide Amrit Lal Berry Vs. Collector of Central Excise, 1975 SCC (L&S) 412).

8. We also do not see any reasonableness in drawing a distinction between employees working in the subordinate offices and attached offices.

9. In the facts and circumstances of the case, we are of the opinion that the applicant should be given the benefits of the judgement of the Bombay High Court dated 23.7.1979. We, accordingly, order and direct the respondents to refix the pay of the applicant in terms of the said judgement notionally for the purpose of recomputing his pension, but he will not be entitled to payment of any arrears. The respondents shall comply with the above directions within a period of three months from the date of communication of a copy of this order.

10. The parties will bear their own costs.


(M. M. Mathur) 7/6/83
Administrative Member


7/6/83
(P. K. Kartha)
Vice-Chairman (Judl.)