

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO.1182/1990

DATE OF DECISION : 3.4.92

SHRI ASHWANI KUMAR & ORS.

...APPLICANTS

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM.

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

FOR THE APPLICANTS

...SHRI JITENDER SINGH

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

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

ashwani Kumar and 8 other applicants jointly filed this application, who are similarly situated and are working in the Office of Deputy Director General, Geological Survey of India, Faridabad.

Applicant Nos.1, 2, 3 and 5 are Assistant Chemists while applicant No.4 is Assistant and applicant Nos.6 and 7 are Senior Technical Assistants (STA) and applicant Nos.8 and 9 are Geologists Junior.

2. The applicants are aggrieved by non acceptance of the option of the applicants submitted to the respondents regarding the application of 4th Pay Commission's

recommendations with regard to fixation of their pay
w.e.f. 1.1.1986.

3. The applicants have claimed the relief that the respondents be directed to accept the options submitted by the applicants and the impugned order dt. 18.11.1983 be quashed and set aside and the applicants' pay be fixed according to their option w.e.f. the date and the applicants be awarded arrears and other emoluments which are allowable to the applicants with consequential benefits.

The brief facts of the case are that Government of India revised pay according to the Central Civil Services (Revised Pay) Rules, 1986. The Ministry of Finance in their Office Memorandum dt. 27.5.1988 informed all the Government departments that all the beneficiaries of the rules and those employees who opted new revised pay scales might submit their option upto 31.8.1988 (Annexure A2). The said OM was received in the Office of Deputy Director General, Geological Survey of India, Faridabad on 6.9.1988. The respondent No. 2-Director General, Survey of India rejected the option of the petitioners because the option was received by respondent No. 3 after the date, i.e., 31.8.1988 (Annexure A1). The respondents submitted their representation (Annexure A5), but to no effect, hence this application.

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4. The respondents contested the application and filed a short reply that the department has no power to relax the provision of the Government of India Memorandum dt.27.5.1988, according to which the options have to be exercised on or before 31.8.1988. Acceptance to any option after the expiry of the last date would depend upon the relaxation which may be allowed by the Government of India and for which purpose a reference has already been made to them seeking relaxation for acceptance of the options of the applicants. The decision of the Government of India is still awaited. Thus the respondents did not challenge the application on merit.

5. I have heard the learned counsel of the parties at length and have gone through the record of the case. In fact, the Geological Survey of India itself has recommended that the option of the applicants be accepted after relaxation of the outer limit given in the OM dt.30.8.1988. In the recommendation dt.12.12.1988 (Annexure A6), Administrative Officer has written that the said OM was received in the Office of the Deputy Director General, Geological Survey of India on 6.9.1988 and hence the officers, who are affected could not be able to get their pay fixed in revised scale

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because options were to be submitted before 31.8.1988. An earlier letter was also sent on 29.11.1988 requesting for obtaining relaxation for fixation of their pay in revised scale, but the same was not replied. So the representations of the applicants were annexed with this letter.

6. It is obvious that there is no fault on the part of the applicants as the said OM was received quite late in the office of Deputy Director General, Geological Survey of India, Faridabad. In view of the above, the request has rightly been made by the Office of Deputy Director General, Geological Survey of India through Director General, Geological Survey of India for obtaining necessary relaxation from the Government of India. It appears that the matter has not yet been attended to by the concerned Ministry and so the respondents have rightly replied that the matter is still under consideration. However, the applicants cannot be made to wait for long in view of the above circumstances. The necessary OM ^{order} dt. 27.5.1983 fixing the ~~order~~ limit for giving option as 31.8.1988 should be deemed to have been relaxed in the case of the applicants and the respondents are directed to take into account the options given by the applicants

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regarding the application of the recommendation of the 4th Central Pay Commission and fix the pay of the applicants accordingly. In view of the circumstances, the parties to bear their own costs. The respondents to comply with the direction within eight weeks from the date of receipt of the copy of this order.

Domestic
(J.P. SHARMA) 3.4.92
MEMBER (J)

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