

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1321/1990

DATE OF DECISION 14.2.92

SHRI BALBIR SINGH GURM

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM

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

FOR THE APPLICANT

...SHRI UMESH MISHRA

FOR THE RESPONDENTS

...SHRI M.L. VERMA

1. Whether Reporters of local papers may be allowed to see the Judgement? *h*
2. To be referred to the Reporter or not? *h*

JUDGEMENT

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

Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed, aggrieved by the fact that the respondents have not given the pay scale of Rs.550-900 as recommended by the Third Central Pay Commission w.e.f. 1.1.1973.

2. The applicant claimed the following reliefs :-

- (a) Direct the respondents to fix the pay of the applicant in the pay scale of Rs.550-900 from the date when they joined as Zoological Assistants and consequential benefits as if this was their initial pay scale at the time of appointment.

(W)

- (b) Grant other benefits such as arrears of pay with effect from the date of refixation along with interest 20% till the date of payment.

3. The admitted facts of the case are that the applicant joined the Zoological Survey of India, Headquarters Office as Zoological Assistant in the time scale of Rs.425-700 posted at Solan from October, 1973 to 30th April, 1978.

4. Applicant claimed the benefits of the Third Central Pay Commission's recommendations for entitlement to higher pay scales of Rs.550-900 (revised pay scale of Rs.1640-2900) alongwith arrears and fixation of pay scales and demand that the respondents should have implemented the judgement delivered by the Calcutta Bench of the Central Administrative Tribunal on 7.10.1988, the decision of which was not interfered with by the Hon'ble Supreme Court of India vide order dt. 23.8.1989. The copies of both the orders have been made annexures to the Original Application.

5. The respondents contested the application by filing their counter and have taken the defence that the application is barred by time. It is also stated that the applicant is not working in Zoological Survey of

↓

10A

India and his claim is liable to be dismissed as stemming not from the consideration of equality or justice, but from pure pecuniary greed of getting arrears of pay. It is further stated that the benefit of the judgement of the Calcutta Bench has already been granted to the applicants/existing employees holding the post of Zoological Assistants/Museum Assistants/Senior Gallery Assistants. The applicant has left Zoological Survey of India long ago and are working in much higher posts cannot claim parity with the existing employees covered by the judgement of the Central Administrative Tribunal/Hon'ble Supreme Court.

6. The learned counsel for the parties have been heard at length. The learned counsel for the applicant has referred to the judgement of the Calcutta Bench in OA 601/1987 decided on 7.10.1988. In that Original Application, the applicants were also aggrieved by the order under which they have not been given the pay scale of Rs.550-900 as recommended by the Third Central Pay Commission. The Calcutta Bench has decided the said OA by the following directions:-

"We, accordingly, allow the application and direct that the applicants be fixed in the scale of pay of Rs.550-900/- as Level-I Scientific Asstts. as recommended by the Third Pay Commission. The date of effect of this refixation of the scale would be from 1.1.1973 and the applicants would be entitled to all consequential reliefs."

d

(N)

The Union of India has filed SLP before the Hon'ble Supreme Court and that has been decided against the Union of India by the judgement dt. 23.8.1989 which is as follows :-

"After hearing learned counsel for both parties and after considering the facts and circumstances of the case, we do not find any reason to interfere with the judgement of the Tribunal. The special leave petition is dismissed. There will be no order as to costs."

There is another judgement of the Hon'ble Supreme Court in Civil Appeal No.6/1988 passed on the appeal filed by Union of India against the judgement of the Central Administrative Tribunal, Calcutta Bench where the Calcutta Bench has accorded the benefit of scale of pay of Rs.550-900 to the Scientific Assistants working in the Botanical Survey of India w.e.f. 1.1.1973 with all consequential benefits. The Hon'ble Supreme Court ordered as follows :-

"In the circumstances, we are of the view that the Tribunal was perfectly justified in directing allocation of the revised pay scale of Rs.550-900 to the existing Scientific Assistants of the Botanical Survey of India. We, however, make it clear that the appellants may give effect to the recommendations of the Pay Commission with regard to future recruitments after framing rules in that regard. But, so far as the existing Scientific Assistants are concerned, we uphold the judgement of the Tribunal. For the reasons aforesaid, this appeal is dismissed. There will, however, be no order as to costs."

7. The learned counsel for the applicant also referred to the decision of the OA 988/90 decided by the Principal Bench on 2.7.1991 by the Bench consisting of Hon'ble Sh.P.C. Jain and me (Shri J.P. Sharma) and in that case

1

also, the similar grievance was agitated by the applicants-Dr.Ramakant Roy and 4 others. The grievance of those applicants was that they were given a pay scale of Rs.425-700, but prayed for the grant of the pay scale of Rs.550-900 from the date when they joined as Zoological Assistants and also claimed consequential benefits.

8. Thus the common points in the decided case referred to above and in the present application are that :

- (i) All of them initially joined as Zoological Assistants/Museum Assistants under Zoological Survey of India (Department of Environment, Forest and Wild Life) in the pay scale of Rs.425-700, and
- (ii) All of them are holding degree of M.Sc. (Zoology).

9. Their grievance is common, i.e., in accordance with the recommendations of the Third Central Pay Commission which have been accepted by the Central Government for giving effect to from 1.1.1973, they have not so far been given the pay scale of Rs.550-900 for the period they worked as Zoological Assistants/Museum Assistants, although all of them fall in Level-I having the qualification of M.Sc. (Zoology) and above.

10. In the judgement of the Principal Bench referred to

↓

22

above, it was decided with the following directions :

"In the light of the foregoing discussion, the OA is allowed in terms of the directions that the applicants be fixed in the scale of Rs.550-900 as Level-I Scientific Assistants in the Zoological Survey of India w.e.f. 1.1.1973 or from the date of appointment as such in the grade of Rs.425-700, whichever is later. The consequential benefit of such refixation will be admissible to the applicants only in respect of the period (s) they actually worked in the post of Zoological Assistant in the Zoological Survey of India in the same cadre. For this period, they will also be entitled to the benefit of the order dt. 6th August, 1990 in connection with removal of anomalies, already referred to above. We leave the parties to bear their own costs."

11. The learned counsel for the respondents could not show any distinguishing feature in the case of the present applicant. In view of the above, the case of the present applicant is covered by all the referred cases, which should become final for all purposes.

12. In view of the above, the present application is allowed with the following directions :-

The applicant be fixed in the scale of Rs.550-900 as Level-I Scientific Assistant in the Zoological Survey of India w.e.f. 1.1.1973 or from the date of appointment, i.e. October, 1973, (as such in the grade of Rs. ⁵⁵⁰⁻⁹⁰⁰ ~~425-700~~), whichever is later. The consequential benefit of such refixation will be admissible to the applicant only in respect of

↓

(K)

the period(s) ^{he} ~~they~~ actually worked on the post of
Zoological Assistant in the Zoological Survey of
India in the same cadre. ^a The respondents to comply
with the order, preferably in four months from
the date of receipt of the copy of this order. Costs in
pencil: a *Jormanne*

AKS

(J.P. SHARMA)
MEMBER (J)

14.2.92