

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

DATE OF DECISION : 10.1.1992

O.A. NO. 2168/1990

SHRI R.V. SINGH & SHRI V.K. DIXIT ...APPLICANTS

VS.

UNION OF INDIA & OTHERS

...RESPONDENTS

O.A. NO. 2027/1990

SHRI S.K. GUPTA, SHRI K.N. SINGH ...APPLICANTS
& SHRI P.D. RANE

VS.

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM

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

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

FOR THE APPLICANTS

...SHRI UMESH MISHRA

FOR THE RESPONDENTS

...SHRI M.L. VERMA

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

2. To be referred to the Reporters or not? *Y*

JUDGEMENT

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

OA No. 2168/90 has been filed by Shri R.V. Singh and Shri V.K. Dixit jointly, 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. Similarly OA No. 2027/90 has been filed by the three

16

applicants named Shri S.K.Gupta, Shri K.N. Singh and Shri P.D. Rane jointly, aggrieved by the fact that the respondents have not given the benefit of the decision given by the Central Administrative Tribunal, Calcutta Bench by the order dt. 10.7.1988, which judgement has been upheld by the Hon'ble Supreme Court vide order dt. 23.8.1989.

3. In both the OAs, the applicants have claimed the following reliefs:-

- (a) Direct the respondents to fix the pay of the applicants 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.
- (b) Grant other benefits such as arrears of pay with effect from the date of joining their department and other accompanied benefits available to the employees on account of pay revision.

4. In OA 2027/90, the applicants have also claimed interest @ 20% to compensate the applicants till the date of payment.

5. The admitted facts of the case are that the applicant, Shri R.V. Singh of OA 2168/90 joined the Zoological Survey of India, Headquarters Office as Museum Assistant in the

di

(12)

time scale of Rs.425-700 on 21.5.1973. The applicant thereafter joined the Ministry of Environment and Forests as Wild Life Inspector from 3.11.1978. The other applicant of the above OA, Shri V.K. Dixit joined the Zoological Survey of India as Museum Assistant in the time scale of Rs.425-700 on 30.7.1974 at the headquarters. Thereafter he joined the Ministry of Environment and Forests, Wild Life Regional Office, Bombay. Both the above applicants are now posted outside Zoological Survey of India and their deputation period has ceased.

6. In OA 2027/90, the applicant, Shri S.K. Gupta joined Zoological Survey of India, Headquarters Office in Calcutta on 16.2.1973 as Zoological Assistant in the time scale of Rs.425-700. The applicant was promoted as Senior Zoological Assistant and was regularised in the base post of Zoological Assistant in August, 1986. Second applicant, Shri K.N. Singh also joined the Zoological Survey of India as Zoological Assistant in the time scale of Rs.425-700 and was attached to the Central Entomological laboratory of the Survey w.e.f. 16.2.1973. He was transferred on regular basis to DOEN w.e.f. 14.5.1986. The third applicant, Shri P.D. Rane also joined Zoological Survey of India as Zoological Assistant in the pay scale of Rs.425-700 from 26.4.1975 to 29.9.1986. He was posted to the post of Senior Zoological

↓

(3)

Assistant w.e.f. 29.9.1986. All the above three applicants are now posted outside Zoological Survey of India and their deputation period has ceased.

7. All the above applicants 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 respective Original Applications.

8. The respondents contested both the applications separately by filing their counter and almost have taken the same line of defence that the applications are barred by time. It is also stated that none of the applicants is working in Zoological Survey of India and their 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

1

(3)

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 applicants who have 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.

8. We have heard the learned counsel, who are common to both the Original Applications at length. The learned counsel for the applicants 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 re-fixation of the scale would be from 1.1.1973 and the applicants would be entitled to all consequential reliefs."

The Union of India has filed SLP before the Hon'ble Supreme Court and that has been decided against the Union

↓

(19)

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 the 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."

9. The learned counsel for the applicants 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 Shri P.C. Jain and one of us (Shri J.P. Sharma) and in that case also, the similar grievance was agitated by the applicants-Dr. Ramakant Roy and 4 others. The grievance

↓

155

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.

10. Thus the common points in the decided case referred to above and in both the present OAs 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).

11. 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.

12. In the judgement of the Principal Bench referred to

de



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 on 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."

13. The learned counsel for the respondents could not show any distinguishing feature in the case of the present applicants of both the Original Applications-OA Nos.2168/1990 and 2027/1990. In view of the above, the case of the present applicants is covered by all the referred cases, which should become final for all purposes.

14. In view of the above, the present applications are allowed with the following directions :-

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

↓

(1/1) (2)

period(s) they actually worked on 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,
Annexure-V to the counter^{W.A. 2168/90}. We leave the parties to
bear their own costs.

J. P. Sharma
(J.P. SHARMA) 10.1.92
MEMBER (J)

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A)