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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.218/90
T.A. No.

199

DATE OF DECISION 7.4.1992

Shri Khem Chand Bhandar Petitioner
Shri S.L. Lakhanpal Advocate for the Petitioner(s)
Versus
U.O.I. through the Secretary, Respondent
Min. of Surface Transport & Others
Shri M.L. Verma Advocate for the Respondent(s)

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The Hon'ble Mr.P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr.A.B. GORTHI, 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? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

JUDGMENT

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

The applicant, who is working as a Draftsman in the Department of Lighthouses and Lightships, filed this application under Section 19 of the Administrative Tribunals Act, 1985 has prayed for a direction to respondent No.2(The Director General, Lighthouses and Lightships) either to quash the pay fixation order in respect of respondent No.3(Shri Y.P. Behl, Draftsman in the same office) raising his pay from the pay scale

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of Rs.330-560 to Rs.425-700 or to grant the same pay scale of Rs.425-700 to the applicant as well, who is similarly placed as Shri Behl.

2. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The applicant who is a permanent Tracer in the Directorate of Lighthouses and Lightships was promoted to the post of Draftsman in the pay scale of Rs.330-560 on 24.8.1983. Shri Behl who is also a Draftsman in the same office was promoted in the said scale with effect from 11.12.1973. Shri Behl along with three others filed OA No.301/86 (Shri J.P. Sharma & Others Vs. Union of India & Others) which was disposed of by judgment dated 10.6.1988.

3. In OA 301/86, the applicant had challenged the recommendations of the Third Pay Commission wherein the Commission recommended two different scales of pay while revising the pay scale of Draftsmen, particularly those working in the scale of Rs.205-280. Prior to the revision, the post of Draftsmen in the Department of Lighthouses and Lightships was carrying the pay scale of Rs.205-280. Consequent upon the recommendations of the Third Pay Commission which was accepted by the Government, the pay scales of the post of Draftsmen were revised as under

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even though the work/duties performed by all the 15 Draftsmen were similar:-

- 1) Eight Nos. of Draftsmen - Rs.425-700
- 2) Seven Nos. of Draftsmen - Rs.330-560

4. The applicants in OA 301/86 were amongst the aforesaid 7 Draftsmen and were given the pay scale of Rs.330-560 although the duties performed by them had always been similar to those of Draftsmen who were put in the higher pay scale and, therefore, there had been an unjust discrimination against them.

5. Following representations made by the applicants, the Government issued an Office Memorandum dated 11.9.1987 stating that the Government had decided that all those Draftsmen who were in the pay scale of Rs.205-280 prior to 1.1.1973 should be given the pay scale of Rs.425-700 notionally from 1.1.1973 and actually from 1.9.1987. The applicants had been aggrieved by this order and filed an application in the Tribunal for having their salaries refixed and paid from 1.1.1973.

6. After going through the records of the case carefully and hearing the learned counsel of both parties, the Tribunal held that the benefit of the revised pay in the scale of Rs.425-700 should be allowed to the applicants with effect from 1.1.1973 and that the arrears of salary should be given to them with effect from that date.

7. The Union of India filed SLP(Civil) No.906/89 against the aforesaid judgment in the Supreme Court which was

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dismissed by order dated 7.2.1989. Thus, the judgment of the Tribunal in OA 301/86 became final and binding on the respondents.

8. Thereafter, the respondents have complied with the judgment of the Tribunal and have paid the arrears to the applicants in OA 301/86 including Shri Behl, who was the 4th applicant in that case (respondent No. 3 in the present application).

9. The respondents have contended in their counter-affidavit that Shri Behl was promoted to the post of Draftsmen only with effect from 11.12.1973 in the scale of Rs. 205-280. This fact was neither brought to the notice of the Tribunal by the respondents nor looked into by the Tribunal at the time of delivering the judgment. They have further stated that no appointment to the scale of Rs. 205-280 could be made after 1.1.1973 because this scale did not exist on or after that date.

10. The SLP filed by the respondents in the Supreme Court also did not bring out the aforesaid fact. The SLP was based on the plea of limitation.

11. In our opinion, the judgment of the Tribunal in J.P. Sharma's case, mentioned above, is confined to the facts and circumstances peculiar to that case (OA 301/86) and is not of general application. While Shri Behl was promoted in December, 1973, the applicant was promoted nearly after

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9 years in August, 1983, as Draftsman. Apart from this, a judgment based on wrong facts placed before ^a a Court or Tribunal ~~it~~ cannot be said to lay down good law to be followed in a subsequent case. In other words, a bad precedent will not lay down good law.

12. In the light of the foregoing discussion, we are of the opinion that the applicant is not entitled to the benefit of the judgment of this Tribunal in OA 301/86 (J.P. Sharma & Others Vs. U.O.I. & Others). Accordingly, he is not entitled to the reliefs sought in the present application. The application is accordingly dismissed.

There will be no order as to costs.

[Handwritten Signature]
(A.B. GORTHI)
MEMBER(A)

[Handwritten Signature]
7/4/82
(P.K. KARTHA)
VICE CHAIRMAN(J)