

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

4

O.A. No.2647/90

DATE OF DECISION 3-1-92

Shri S.P. Gupta -

Applicant.

Shri R.K. Kaura -

Counsel for the applicant.

Versus

U.O.I. & Ors -

Respondents.

Shri P.H. Ramchandani -

Counsel for the respondents.

CORAM:

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

The Hon'ble Mr. B.N. DHOUNDIYAL, MEMBER(A)

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 B.N. Dhoundiyal)
Member(A)

This O.A. has been filed by Shri S.P. Gupta, under Section 19 of the Central Administrative Tribunal Act, 1985, praying for the following reliefs:-

(i) The applicant may be granted the higher scale of pay of Rs.380-560(pre-revised) w.e.f. 1.11.1975 as in the case of other colleagues who are similarly situated and have ~~since~~^{been} been given the same grade in 1988.

(ii) The pay may be fixed accordingly and arrears paid upto date with interest thereon @ 12% per annum, at least, within 3 months of the decision.

(iii) All other consequential benefits of pay and allowances etc. flowing therefrom may kindly be allowed.

2. The applicant was appointed as Compositor in the scale of Rs.100-3-130 in the office of the Defence Science Laboratory on 31.8.1962 and was promoted to the post of Senior Proof Reader on 1.11.1975. According to him, he has been wrongly given the Tradesman Grade 'B' scale of

B.N.

Rs.330-480 instead of Grade 'A' scale of Rs.380-560. His three colleagues filed Suit No.258/79 in the Civil Court praying for the grant of pay scale of Rs.380-560 which was decreed in their favour on 18.4.1984. The appeal filed by the Department also failed in 1988. They were given higher grade but the request of the applicant to extend the same benefits to him also was not acceded to.

3. The Respondents have raised a preliminary objection relating to limitation. According to them, the cause of action arose on 1.1.73 when these scales were granted on the basis of the recommendations of the Third Pay Commission. In our opinion, this objection is devoid of any substance. The respondents had asked the applicant to await the final decision on the appeal filed by the Government. The appeal was rejected in December 1988 and the applicant had been duly representing for extension of benefits of this judgement to him. The respondents should have, on their own extended of the Judgement to the applicant without forcing him to file the present application. In a case of this kind concerning a lowpaid employee, the respondents should not have raised the technical plea of limitation to defeat the just claims of the applicant.

4. The respondents have contended that the pay scales were fixed on the ^{for recommendation by} ~~basis~~ of expert bodies like the IIIrd & IVth Pay Commissions. There were five Senior Proof Readers in the organisation viz. Shri Harish Chandra(Retd.) BK Malhotra, B.L. Chowdhury, RK Saxena and the applicant. The pay scale of senior proof reader was revised from Rs.150-240 to 330-480/- w.e.f. 1.1.73 but the first three went to the Civil Court where they were able to secure orders dated 18.4.84 for grant of a higher pay scale of Rs.380-560 (instead of Rs.330-480) fixed for Industrial Group 'A' category. This higher scale was meant for workshop staff only according to the report of the Third pay commission.


BN

6

5. We have gone through the records of the case and heard the learned counsel for the parties. The respondents have not controverted the assertion that there were only 5 Senior Proof Readers in the organisation out of which 3 have already been given the higher scale. In our opinion, denial of such grade of similarly placed employees doing the same type of work would result in hostile discrimination attracting the provisions of Article 14 and 16 of the Constitution. As the number of employees ^{by} ~~the~~ benefitted is small, we do not think grant of the higher grade to the remaining two employees will open the flood gates of litigation. The application is therefore disposed of with the direction to the respondents that the applicant shall be given the pre-revised scale of Rs.380 - 560 from April 1973 i.e. the date on which his other colleagues were given this grade. He will also be entitled to all the consequential benefits. The respondents shall comply with the above directions within a period of two months from the date of communication of this order.

6. There will be no order as to costs.

B. N. Dhundiyal
(B.N. DHUNDIYAL) 3/11/72
Member (A)


3/11/72
(P.K. KARTHA)
Vice Chairman (J)