

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

Regn. No. RA 86/1992 in
OA 960/1990

Date of decision: 24.02.1993.

Shri R.D. Gupta & Others

...Petitioners

Versus

Union of India & Others

...Respondents

For the Petitioners

...Shri U.S. Bisht,
Counsel

For the Respondents

...Shri Jog Singh,
Counsel

CORAM:-

HON'BLE SHRI P.K. KARTHA, VICE CHAIRMAN(J)

HON'BLE SHRI B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgement? *Yes*
2. To be referred to the Reporters or not? *No*

J U D G E M E N T

(of the Bench delivered by Hon'ble Sh. P.K. Kartha

Vice Chairman(J)

The petitioners in this RA are the original applicants in OA 960/1990 which was disposed of by judgment dated 06.02.1992. OA 960/1990 had been filed originally by 8 applicants out of which two were the legal representatives of the deceased Government servants. They had worked in the Directorate General of Supplies and Disposals (DGS&D) in the post of 'B' grade clerks in the pay scale pf Rs. 60-5-100-EB-10-120 prior to the recommendations of the First Pay Commission. All of them have since retired from

service on attaining the age of superannuation. On 25.09.1991, the Tribunal allowed Shri A.K. Raizada who was similarly situated to be impleaded as an applicant pursuant to MP No. 2365/1991 filed by him.

2. In the judgment of the Tribunal dated 06.02.1992 the Tribunal observed that some of the applicants are in their sixties while some others in the seventies in the age group. Their grievance is that they were not given the benefit of the judgment of the Bombay High Court dated 23.07.1979 in Writ Petition No.890/1979 (Smt. Malini Dhanji Pingle & Others Vs. Union of India through Ministry of Industry, Department of Industrial Development, New Delhi & Another). All the applicants except Shri O.P. Sinha were holding the post of Assistant at the time of their retirement while Shri O.P. Sinha was working as Section Officer. They had prayed for the following reliefs:-

- (i) That they be deemed to have been appointed as UDCs in the pay scale of Rs.80-220 with effect from 1.1.1947 on the recommendations of the First Pay Commission;
- (ii) that they be paid salary and allowances for the post of UDC and arrears from 1.1.1947 till the date of retirement;
- (iii) that their names be included in the seniority list of UDCs and they be given promotions to the higher posts of Assistant,

Section Officer and Under Secretary etc. as may be due to each of them consequent to their ^{being} ~~deemed~~ as UDC on 1.1.1947;

(iv) that they be given salary and allowances and arrears of higher post as might accrue to them due to promotions and consequential benefits;

(v) that their pension/gratuity etc. may be revised in accordance with the pay and allowances last drawn by them after taking into account the reliefs prayed for; and

(vi) they had also prayed for 12% interest on the arrears due to them.

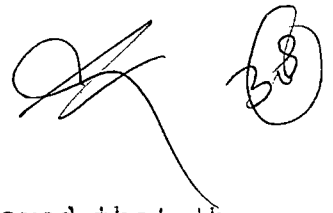
3. After hearing the learned counsel for both parties and going through the records of the case, the Tribunal held that the applicants should be given the benefit of the judgment of the Bombay High Court dated 23.07.1979. Accordingly, the Tribunal directed the respondents to refix the pay of the applicants in terms of the said judgment notionally for the purpose of recomputing their pension but they would not be entitled to payment of any arrears of pay and allowances.

This would apply to applicants 1 to 4, 6 and 7 and Shri Raizada who had been impleaded as applicant. The same benefit should be given to applicants 5 and 8 in regard to the quantum of family pension payable to them. They would also be entitled to arrears of pension on the basis of such recomputation from the date of superannuation.

4. In reaching the above conclusion, the Tribunal had also taken into account the judgment dated 2.2.1990 in OA 469/1987 -

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5. In the present RA the petitioners have prayed that they should be paid the arrears of pay and allowances and interest with effect from 1.1.1947 together with interest at 12% per annum, that they be given seniority as UDCs on 1.1.1947 with consequential promotion to higher posts and that they should be given the cost of the applications. In the case of petitioner No.3 it has been stated that he retired from service on 29.02.1984 and the family pension has been given subsequently with effect from 20.10.1987 based on the last pay drawn by the pensioner consequent on the refixation of his pay as UDC on 1.1.1947. It has been prayed that the pension has to be recomputed and the family pension also should be revised in the case of petitioner No.8 Shri B.D. Sanyasi.

6. The ground raised in the present RA is that in respect of two erstwhile colleagues of the petitioners, Shri S.P. Gupta and Shri V.K. Nigam ex-Assistants both of whom were 'B' grade clerks in the scale of Rs.60-120, the Government has refixed their pay in the scale of Rs.80-220 with effect from 1.1.1947 and paid arrears of pay and allowances on the basis of the Bombay High Court judgment. They have annexed to the RA the orders issued by the respondents on 8.11.1985 which is at pages 16 to 25 of the paper book. The respondents have not controverted this averment in the reply filed by them to the RA. Another ground mentioned is that in the similar case of Shri Anirudh Gupta, mentioned above, the applicant was given the aforesaid benefits.



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7. We see force in the aforesaid submission made by the petitioners. Accordingly, we partly allow the RA and direct that in addition to the benefits conferred to the petitioners by judgment dated 6.2.1992, they should also be given the arrears of pay and allowances with effect from 1.1.1947 in the same manner as was done in the case of Shri S.P. Gupta and Shri V.K. Nigam, mentioned above. Similarly, the pay of petitioner No.8 (Shri Sanyasi) should also be revised till 19.10.1987 when the petitioner expired and that the arrears should be paid to the family of the petitioner in addition to the revised family pension based on the refixation of pay and allowances. The respondents shall comply with the aforesaid directions expeditiously and preferably within a period of 3 months.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 24/2/93
MEMBER (A)
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am
24/2/93
(P.K. KARTHA)
VICE CHAIRMAN(J)

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