

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO.OA 960/90 with
MP No.2365/91

Date of decision: 6.2.1992

Shri R.D.Gupta & Ors.-----

Applicants

vs.

Union of India & Anr. -----

Respondents

CORAM: THE HON'BLE MR.P.K.KARTHA, VICE CHAIRMAN(J)
THE HON'BLE MR.D.K.CHAKRAVORTY, MEMBER(A)

For the Applicant -----

Shri U.S.Bisht, Counsel.

For the Respondents -----

Shri O.P.Kshatriya,
proxy counsel for
Shri N.S.Mehta, counsel.

JUDGEMENT (ORAL)

(JUDGEMENT OF THE BENCH DELIVERED IN THE OPEN
COURT BY HON'BLE MR.P.K.KARTHA, VICE CHAIRMAN)

We have heard the learned counsel of both
parties and have gone through the records of the
case carefully.

2. This application has been filed originally
by 8 applicants out of which 2 are 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 of Rs.60-5-100-E8-10-120 prior to the recommendations
of the First Pay Commission. All of them have since
retired from service on attaining the age of super-
annuation. On 25.9.1991, the Tribunal allowed
Shri A.R.Raizada, who is similarly situated to be
impleaded as a applicant pursuant to MP No.2365/91
filed by him. Some of the applicants are in their

sixties while some other in the seventies in the age group. Their grievance is that they were not given the benefit of the judgement of the Bombay High Court dated 23.7.1979 in Writ Petition No.890/79 (Smt. Malini Dhanji Pingle & Ors. 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. The prayers made by them in this application are the following:-

" That the applicants be deemed to have been appointed as BDC in the pay scale of Rs.80-220 w.e.f. 1.1.1947 on the recommendations of the First Pay Commission.

That they be paid salary and allowances for the post of UDC and arrears from 1.1.1947 till the date of retirement.

That the names of the applicants 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.

They may be given salary and allowances and arrears of higher posts as might accrue to them due to promotions as consequential benefits.

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 in para 6.1 to 6.4 above.

That 12 percent interest on the arrears may be granted to each of the applicant."

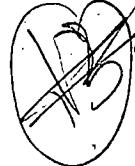


3. Identical issues were raised in three other applications filed in the Tribunal which have already been disposed of (judgement dated 2.2.1990 in OA 469/87- Shri Anurudh Gupta Vs. U.O.I, judgement dated 7.6.1989 in OA 270/87- Sh.S.C.Dass Vs. U.O.I and judgement dated 23.11.90 in OA 886/90- Shri Sujan Singh Bisht Vs. U.O.I through Secretary, U.P.S.C.). Both of us were parties to the judgements in the cases of Anurudh Gupta and Sujan Singh Bisht. In all these cases, we have allowed the prayer of the applicants and issued appropriate directions to the respondents.

4. The learned counsel for the respondents argued that the application is not maintainable on the ground that it is barred by limitation. He further contended that the applicants were working in the DGS&D which is an attached office whereas the judgement of the Bombay High Court pertains to grade 'B' clerks who had been working in the subordinate offices. These contentions had also been raised in the case of S.C.Dass but were rejected by the Tribunal. In our opinion, when a citizen aggrieved by the action of ^{an} Government department has approached the court and obtained a declaration of law in his favour, others in like circumstances should be able to rely on the sense of responsibility of the department concerned and should expect that he will be given the benefit of this declaration without the need to take his grievance to court (vide Amrit Lal ^{Berry} Vs. Collector of Central Excise- 1975 SCC(L&S) 412).

5. We also do not see the reasonableness in drawing a distinction between the employees working in the subordinate offices and attached offices specially when the pay scales in both the offices are identical.





6. In the circumstances of the case, we are of the opinion that the applicants should be given the benefit of the judgement of the Bombay High Court dated 23.7.1979. We accordingly order and direct the respondents to refix the pay of the applicants in terms of the said judgement notionally for the purpose of recomputing their pension but they will not be entitled to payment of any arrears of pay and allowances. This would apply to applicants 1 & 4, 6&7 and Shri Raizada, petitioner in MP No.2365/91. The same benefit should be given to applicants 5 & 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.
7. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. The application is disposed of at the admission stage on the above lines.
- The parties will bear their own costs.

D.K.Chakravorty
(D.K.CHAKRAVORTY)
MEMBER(A) 6-2-1992

Partha
6/4/82
(P.K.KARTHA)
VICE CHAIRMAN(J)