

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

14

O.A./T.A. No. 1001 of /1990 Decided on: 12.3.96

A.K. Aggarwal & Ors. APPLICANT(S)
(By Shri Bisaria & Co Advocate)

VERSUS

U.O.I. RESPONDENTS
(By Shri V.S.R. Krishna Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE SHRI/SMT./XXX LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)

Member (J)

S.R. Adige
(S.R. ADIGE)

Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1001/90

New Delhi, dated the 12th March, 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Shri A.K. Aggarwal
2. Shri J.S. Ashwatha
3. Shri J.C. Arora
4. Shri S.D. Fakay
5. Shri Dhan Ram
6. Shri Mukh Ram Singh
7. Shri P.K. Aggarwal
8. Shri S.C. Gupta
9. Shri Hem Raj Gupta
10. Shri Om Kar Kapur
11. Shri Raj Singh
12. Shri Ram Kumar Gupta
13. Shri Mahendra Singh
14. Shri Narain Dutta
15. Shri D.D. Sharma
16. Shri Bhypendra Mohan
17. Shri M.P. Singh
18. Shri S.K. Kulshreshtha
19. Shri S.C. Singh Rawat
20. Shri R.K. Sharma
21. Shri Subash Singhal
22. Shri K.K. Arora
23. Mrs. Promila Arora
W/o Shri Harish Arora
24. Shri S.K. Patel
25. Shri A.K. Singh
26. Shri M.C. Bhatnagar
27. Shri Devi Sahai
28. Shri J.N. Goswami
29. Shri Charan Das
30. Shri R.S. Trivedi
31. Shri P.C. Chauhan
32. Shri P.K. Vyas

(All are working as Research
Assistants (Scientific) in CWC,
Sewa Bhawan,
R.K.Puram, New Delhi)APPLICANTS
(By Advocate: Shri S.K.Bisaria)

1. Union of India through the Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi. RESPONDENTS

(By Advocate: Shri V.S.R. Krishna)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this O.A. the applicants Shri A.K. Aggarwal and 31 others all Research Assistants in the CWC have sought a direction to the respondents to revise their salaries from Rs.425-700 to Rs.550-900 (prerevised) w.e.f. 1.1.73 the dates from which the grades of Sr. Computers were revised from Rs.330-560 to Rs.425-700 with adequate promotion opportunities with consequential benefits.

2. After completion of pleadings this O.A. came up for hearing on 3.8.94. On that date none appeared on either side. After going through the materials on record, the O.A. was dismissed. While doing so, regard was given to the CAT (Hyderabad) Bench judgment dated 25.7.90 in OA No. 261/87 which contained similar grievance and similar prayer and which had likewise been dismissed.

3. Thereupon five of the applicants filed RA No. 380/94 which was heard on 12.9.95. In that RA the applicants contended that the Tribunal in its impugned judgment dated 3.8.94 had ~~dimis~~^{dis} dismissed only one ground advanced by the applicants; namely that similarly situated Research Assistants in the Central Water Commission and Power Station, Pune and the Central Soil and Material Research Station at Delhi, had been given a higher scale and not the other ground advanced by them; namely that senior computers who formed the feeder grade for the posts of RAs, had themselves been granted the scale of Rs.425-700 and hence the RAs should get a higher grade. The RA was allowed by order dated 12.9.95 in which it was noted that the Bench had not considered this second ground in its judgment dated 3.8.94, which constituted an error apparent on the face of record. The earlier judgment dated 3.8.94 was recalled and the O.A. was accordingly ordered to be reheard.

4. The matter came up for rehearing on 20.11.95. On that day, applicants' counsel Shri Bisaria stated, that the applicants were directly recruited RAs and that they should be given the higher scale of Rs.550-900 on a number of grounds, including the ground that ^{had} they/ no promotional opportunities at all.

In this connection attention was also invited by him to Dept. of Expenditure O.M. dated 13.9.91 relating to in-situ promotion for those Group C & D employees facing stagnation. Respondents stated on that date that such in-situ promotion had been given to 28 RAs vide order dated 26.8.94. Whether the applicants in the OA were also entitled to such insitu promotion was a question on which respondents sought time to respond.

5. After two more adjournments sought by applicants' counsel and granted, the O.A. was reheard in the presence of counsel for both sides.

6. In so far as the first ground urged by the applicant is concerned, namely that RA's similarly placed in CWC Power Research Station, Pune and Central Soil & Material Research Station, Delhi have been granted higher scale of Rs.550-900, the Tribunal in its judgment dated 3.8.94 relying upon the CAT (Hyderabad) Bench judgment dated 25.7.90 in OA No. 261/87 has rejected this contention, with which findings we as a coordinate bench are bound.

7. In so far as the second ground is concerned, namely that the post of Sr. Computer in the feeder grade for promotion to the post of Research Assistant and as Sr. Computers have been allowed Rs.425-900, the

RAs should be in a higher scale, we note that Tribunal, in its order dated 20.11.95 has recorded the submission of applicants' own counsel that the applicants are directly recruited RAs. The respondents in their reply have stated that the posts of RAs in the CWC (except for few posts of RA [Maths]) are filled up 100% by direct recruitment through Staff Selection Commission, whereas posts of Sr. Computers come under Statistical Stream with different set of recruitment rules. As there is no averment that any of the applicants are RA (Maths) who were promoted from the ranks of Sr. Computers in the scale of Rs.550-900, and as the applicants' counsel has himself stated before the Tribunal on 20.11.95 that the applicants were directly recruited RAs, the fact that the scale of the Sr. Computers was revised to Rs.550-90 does not advance the applicants' claim.

8. Applicants' counsel Shri Bisaria has relied upon the CAT (Ernakulam) Bench judgment dated 8.2.94 in OA No. 582/93 P.Aravindakshan Vs. Secretary, CWC but in that case the applicant belonged to the Central Water Power Station, Pune, whose case has already been distinguished from that of the present applicants who work in the CWC, vide Tribunal's judgment dated 3.8.94. Furthermore in that case the respondents had

no objection to considering the claim of that applicant for higher grade of Rs.1400-2600 in Group 'C' post, which is not the case here, as the grant of the scale of Rs.550-900 to the applicants is strenuously opposed by the respondents. Hence that judgment also does not help the applicants.

9. Reliance has also been placed on the judgment dated 6.5.94 in OA No. 1866/89 Brijesh Kumar & anr. Vs. UOI but that judgment mainly directed the respondents to consider all aspects of the matter expeditiously and pass a speaking order, within 6 months, or make a suitable reference to the Vth Pay Commission which was constituted on 9.4.94. In their reply dated 9.5.95 to the RA the respondents have stated that the question of referring the case of the applicants for grant of higher scale of Rs.550-900 to the Pay Commission was under examination.

10. Under the circumstances, while we are unable to grant the relief prayed for, we note that pursuant to the Tribunal's order dated 6.5.94 in OA No. 1866/89 Brijesh Kumar & Anr. Vs. UOI no speaking order has~~s~~ been shown to us, and the matter had also not been referred to the Pay Commission till 9.5.95. Respondents' counsel has also not stated before us during hearing, that ~~a~~ reference has been made to the Pay Commission

thereafter. Under the circumstance we direct the respondents that in the event that no reference in respect of the applicants' claim has been made to the Pay Commission till date, the same may be done even at this late stage, within two months from the date of receipt of a copy of this judgment, provided the Pay Commission is still accepting such references.

11. In so far as the applicants' claim for in situ promotion are concerned, in the absence of all relevant details furnished by each individual applicant to us, we are unable to issue any blanket direction to the respondents. However, in the event that the applicants make representations to the respondents for grant of in situ promotion, supported by all relevant details, the respondents should examine the same, and dispose of these representations within 3 months of their being filed, in accordance with the relevant rules and instructions on the subject.

12. This O.A. is disposed of in ^{intents} of the contents of paragraph 10 and 11 above. No costs.

Lakshmi Swaminathan

(LAKSHMI SWAMINATHAN)
Member (J)

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Adige
(S.R. ADIGE)
Member (A)

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