

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
\*\*\*

O.A.No. 1863/91.

Date of Decision 18.5.1993

Shri Mahendra Singh ... Applicants  
and Others.

v/s

Union of India ... Respondents  
and Others.

CORAM:

The Hon'ble Mr. B.S. Hegde, Member (Judicial).

For the Applicant ... Shri B.S. Mainee, counsel.

For the Respondents ... Shri Romesh Gautam, counsel.

(1) Whether Reporters of local papers may be  
allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

J\_U\_D\_G\_E\_M\_E\_N\_T

Delivered by Hon'ble Shri B.S. Hegde, Member (J)

The applicant has filed this application under

Section 19 of the Administrative Tribunals Act, 1985

praying for quashing the impugned order dated 26th

July, 1991 and seek direction to the respondents to

fix the pay of the applicants in the revised scales

on the basis of their pay fixed in the scale of Rs.455-700

prior to the implementation of the Fourth Pay Commission.

..

2. This pertains to the fixation of pay consequent on the implementation of the recommendations of the Fourth Pay Commission. The applicants were working as Chief Parcel Clerks under D.R.M., New Delhi. On 19th April, 1985, a selection for the post of "Chief Parcel Clerk" in the grade of Rs. 455-700 was introduced and written test was arranged on 12th May, 1985. All the applicants were appointed on 1.1.1986 against the posts of Chief Parcel Clerk in the grade of Rs. 455-700 at New Delhi Railway Station. It is not in dispute that the posts were lying vacant for a long time. As they were already working in that office and they have taken charge of the new assignment on 1st January, 1986, consequent upon the Fourth Pay Commission, revised pay scale was fixed as per the recommendations of the Fourth Pay Commission from January to September, revised scales were introduced and they were given annual increment u.s.p. 1.1.1987.

3. It is the case of the applicants that in May 1987 the respondents reduced their pay without any notice or hearing before effecting reduction. Though the applicants sent repeated representations through Union, nothing had been heard from the respondents. In support of their contention, Divisional Railway Manager, New Delhi wrote to Chief

Personnel Officer, Northern Railway recommending that the applicants pay fixed in the new scale should be protected. Nevertheless, respondent No. 1 arbitrarily turned down the request which is at Annexure A-11. The stand of the applicants is that since the applicants had been promoted in the higher scale of Rs. 455-700 on 1.1.1986 as such the scale of Rs. 455-700 would be applicable as on 1.1.1986. Besides, though the Fourth Pay Commission's recommendations with respect to Group 'B', 'C' & 'D' had to be implemented with effect from 1.4.1986. However, the Government gave effect from 1.1.1986. It is considered that some of their colleagues had filed an application being O.A. No. 1405/87 P.C. Aggarwal v/s U.O.I. praying for quashing the impugned order and direction to the respondents to restore pay of the applicants which was arbitrarily reduced in the month of May, 1987. The said application was allowed vide judgement dated 24.4.1990. The Tribunal had quashed the impugned order with direction to the respondents to restore the original fixation of pay and to have the pay of the applicant fixed in the corresponding revised pay.

4. It is also not in dispute that the respondents

*P*  
have implemented the judgement and fixed the pay of those applicants as per direction w.e.f. 20.6.1991.

S. The Learned Counsel for the applicant, Shri R.S. Mainee contends that the present applicants are placed in similar situation and are entitled to the benefit of the judgement as per law declared by the Supreme Court in Amrit Lal Behri and A.K. Khanna and Others and in this case he further contends that except technical plea of limitation they have taken all steps by making suitable representations to the authorities concerned requesting them to consider their genuine request and it would not be proper on the part of the Tribunal to reject the valid rights of the applicant merely based on the technical plea of limitation. Right from the date the pay reduction was made, they have been making representations to the authorities and subsequent to the decision of the Tribunal requesting the authorities to implement the decision to other applicants who are similarly situated and fix their pay accordingly. Since the respondents have rejected their request arbitrarily vide dated 26.7.1991, there is no alternative for them but to approach this Hon'ble Tribunal for seeking relief.

*Ans*

6. In this case it is an admitted fact that delay in finalisation of the decision was on the part of administration and while reducing the pay, the respondents ought to have given opportunity before effecting reduction. No such opportunity was given in this case. Shri Mainee, in support of his contention, cited many decisions not only of the Supreme Court but also of the decisions of this Tribunal of the Principal Bench as well as Calcutta Bench. The sum and substance of these decisions are that the applicants were entitled to the benefit of the judgement as they are placed in similar circumstances and the impugned order of reducing the pay of the applicants is in violation of the law. Whereas, the only contention the Respondent has raised in this petition is that the promotion orders were given effect after 1.1.1986 and not on 1.1.1986. Further, they contend that the applicants were in grade of Rs. 425-640 as on 1.1.1986 and not in grade of Rs. 425-640 as on 1.1.1986 and not in grade of Rs. 455-700, thereby their pay has not been affected adversely. The aforesaid contention is not borne out of records.

7. The Learned Counsel for the respondents, Shri Romesh Gautam, draws my attention to Supreme Court's decision in S.S. Rather Vs. State of M.P. [AIR 1990 SC 107] held that in the case of a service dispute, the cause of action must be taken to arise not from the date of original adverse orders but on the date of the higher higher authority where a statutory remedy is provided undertaking the appeal or representation made and where no such order is made, through the remedy has been availed of, a six months' period from the date of preferring of the appeal etc.etc. It is also stated that repeated unsuccessful representations not provided are not governed by this principle.

8. It is true that a period of limitation prescribed by Section 21 of the Act to regulate the question of limitation prescribed by Section 21 of the Act to regulate the question of limitation for an application filed under Section 19 irrespective of the fact whether it impugns irregularity or illegal order. In the instant case as mentioned earlier, the applicant has made representation immediately after the reduction of pay to the competent authorities but the only faults on the part of the applicants that they did not agitate the matter before a proper forum as was done in the case of P.C. Aggarwal

*Aggarwal*

and others. There is no dispute that the applicants are similarly situated than that of the persons involved in O.A. No. 1405/87. I am not persuaded that the arguments of the respondents that a substantive claim of the applicants can be defeated only on the point of technical plea of limitation. If the subject matter is otherwise purely covered by the decisions of this Tribunal as well as of the Supreme Court. It is also incorrect to state that they have been drawing the pay-scale of Rs. 455-700 after 1.1.1986. By that date, they already assumed office as Chief Parcel Clerk. Further, the facts of this case are not envisaged in S.S. Rathore's case. Therefore, the substantive claim of the applicants cannot be defeated relying on the ratio laid down in Rathore's case.

8. The short point for consideration is whether the order dated 22.5.1987, the pay of Chief Parcel Clerk has been refixed is sustainable in law. Nowhere it is stated by the respondents in their reply that the applicants are not situated in an identical situation than that of the case already decided by this Tribunal in P.C. Aggarwal and Others decided on 24.4.1990.

9. In the light of the above, I am of the view, that the order dated 22.5.1987 cannot be sustained.

The present applicant's case is clearly covered by the decision of this Tribunal and hence, I direct the Respondents to restore the original fixation of pay i.e. Rs. 455-700 and to have the applicant's pay fixed in the corresponding revised pay accordingly. The applications are allowed in the light of the above. Parties are allowed to bear their own costs.

*B.S. Hegde* 18/5/63  
(B.S. HEGDE)  
MEMBER(J)