

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 2941/2004

This the 3rd day of August, 2005

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MR. S.A.SINGH, MEMBER (A)

1. Mrs. R.K.Chadha
w/o Sh. S.S.Chadha
C4D/67B, Janakpuri, New Delhi.
2. Mrs. Saroj Bala Bhatnagar,
w/o Sh. U.C.Bhatnagar,
G256 Nauroji Nagar, New Delhi.

(By Advocate: Sh. Deepak Verma)

Versus

1. The Secretary,
Ministry of Statistics & P.I.
Sardar Patel Bhavan,
Sansad Marg, New Delhi.
2. The Executive Director/DDG
Computer Centre,
East Block X, R.K.Puram,
New Delhi-110066.

(By Advocate: Sh. R.N.Singh)

ORDER

Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

Applicants were promoted as Data Processing Assistant/Tape Librarian (DPA/TL) on 27.12.89 in the pre-revised scale of Rs.1200-2040. They were placed in the pay scale of Rs.1350-2200 when the report of Seshagiri Committee was implemented w.e.f 11.9.89. They were redesignated as Data Entry Operator-C (DEO-C). Change of their stream and revision of the scale of Rs.1350-2200 was challenged by some DEO-C who were similarly situated as these applicants. The Supreme Court in Chandraprakash Madhavrao Dadwa vs. Union of India & Ors. (1998) 8 SCC 154 quashed the orders of the respondent and declared that the appellants were entitled to the designation of DPA Grade-III also called earlier as Grade-B in the pay scale of Rs.1600-2660 w.e.f. 1.1.86 and the replacement scale of Rs.5000-8000 w.e.f. 1.1.96. Relying upon this judgment this Tribunal in OA-1332/99 in case of D.K.Sinha vs. Union of India vide order dated 11.2.2002 held that the DPAs redesignated as DEOs in the pay scale of Rs.1350-2200

working in the Computer Centre were entitled to the pay scale of Rs.1600-2660 w.e.f. 1.1.1986 or the date of joining whichever is later with all consequential benefits and to be redesignated as DPA Grade-III. This judgment was upheld by Delhi High Court and has since been implemented by the respondents. This order was followed by the Tribunal in OA-1080/2003 in the case of Mrs. Urmil Jaitley and another vs. Union of India and others decided on 9.2.2004. This order has also been implemented. According to the applicants, they are exactly similarly situated persons and some of the applicants in the two decided cases were their juniors so they were also entitled to be granted the benefit of the two orders. They have filed this OA for refixation of their pay in the pre-revised scale of Rs.1600-2660 w.e.f. 1.1.96 or the date of their joining as DPA whichever is later and for redesignating them as done in the case of their juniors and other DPAs in the two decided cases.

2. The respondent have repudiated the claim of the applicant and have stated that in another case Dharam Paul and others vs. Secretary, Ministry of Statistics and others after taking into consideration the order in D.K.Sinha's case (supra) the Tribunal has dismissed the OA vide order dated 23.12.2004 in OA-1058/2004 and the present OA is covered by that order. It was also stated that OA is barred by principle of res judicata, waiver acquiescence, estoppel as these applicants have filed OA-1763/99 which was allowed and they were granted and the order had been implemented. Other allegations of the respondents have also been controverted.

3. In the rejoinder applicant has reaffirmed their case.

4. We have heard the learned counsel for the parties and have perused the record.

5. Concisely the case of the applicant is that they are similarly situated persons as the applicants in the case of D.K.Sinha and another vs. Secretary, Department of Statistics OA No.1332/99 and the case of Mrs. Urmil Jaitley and others vs. Union of India and others in OA-1080/2003 decided on 9.2.2004, therefore, they are entitled to be treated at par with those applicants and to be placed in the pre-revised scale of Rs.1600-2660 w.e.f. 1.1.96 and also to be redesignated at par with them. It is specifically stated that two applicants in these OAs were junior to the applicants which fact has not been controverted by the respondents. In fact respondents have not denied that the applicants in the present case and the applicants in the above mentioned two decided cases are

in court on 6.6.06

similarly situated and similarly placed persons. The only defence is that in another case of Dharam Pal and others vs. Secretary, Ministry of Statistics and others OA-1058/2004 where the order of this Tribunal in D.K.Sinha's case (supra) was relied upon the relief was not granted to the applicant.

6. It has also not been contended on behalf of the respondents that the applicants of the present case and the applicants in the case of D.K.Sinha (supra) were not similarly situated persons as the appellants in the case of Dadwal's case (supra) where the Hon'ble Supreme Court has granted the upgraded scale as well as the redesignation as prayed for in this application. The case of Mrs. Urmil Jaitley (supra) was decided on the basis of the order passed in the case of D.K.Sinha (supra). Mr. Vijay Abrol, applicant No.2 in the said case is admittedly junior to these applicants. It is also not denied that the order of this Tribunal in D.K.Sinha's case (supra) has been affirmed by the Hon'ble Delhi High Court and it has since been implemented. Similarly it has also not been denied that the order of the Tribunal in Mrs. Urmil Jaitley's case (supra) has also since been implemented. Since the order passed in the case of D.K.Sinha (supra) has been confirmed by the Hon'ble Delhi High Court, the order of this Tribunal in Dharam Pal's case (supra), even presuming that it involved the case of similarly situated persons, cannot be followed. Even otherwise the said OA was filed for revision of the pay scale of the post of JPA which was a promotional post in the pay scale of Rs.2000-3200 w.e.f. 1.1.86.

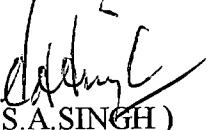
7. The applicant's prayer in the present OA cannot be denied simply because earlier they had filed an OA-1763/99 titled Mrs. Urmil Jaitley and others vs. Department of Statistics and others for extension of benefit of order dated 29.5.98 passed in OA-1599/97 for pay fixation in their respective grade on 1.1.86 instead of 11.9.89 with monetary benefits and Tribunal has allowed the OA and had directed the respondents to grant the applicant's respective pay scale w.e.f. 1.1.86 instead of 11.9.89 and refix their pay subject to fulfillment of other eligibility conditions and also grant consequential monetary benefits. The present application is filed for grant of parity on the basis of the order of this Tribunal in OAs of D.K.Sinha (supra) and Mrs. Urmil Jaitley (supra) and in case the parity is not granted to the applicant it will result in a hostile discrimination to the applicant. In fact the respondents themselves should have given benefit of their order of

Amendments

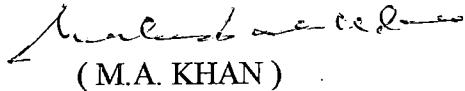
implementation of the directions of the Tribunal in the case of D.K.Sinha (supra) and Mrs. Urmil Jaitley (supra) instead of driving the applicants to file another case and multiply the litigation. It has been repeatedly observed by the Hon'ble Apex Court and this Tribunal also that the benefit of orders which are of the nature of judgment in rem should be extended to all similarly situated persons by the Government as a modal employer.

8. This application cannot be dismissed on account of delay or laches or barred by time since the applicants are seeking benefit of the orders under which benefit of upgraded scale etc. had been granted to their colleagues and their representation has been rejected. (see also R.N.Vaswani vs. U.O.I. and others 2004 (2) SCT 628).

9. The result of the above discussion is that OA is allowed and the respondents have directed to grant them the benefit of this Tribunal's order dated 11.2.2002 passed in OA-1332/99 D.K.Sinha and others vs. Secretary, Department of Statistics and others. The direction shall be implemented within 4 months from the date of the receipt of the copy of this order. Parties are left to bear their own costs.


(S.A.SINGH)

Member (A)


(M.A. KHAN)

Vice Chairman (J)

'sd'