

Central Administrative Tribunal, Principal Bench

O.A. 1321/2004

New Delhi this the 25th day of February, 2005

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

1. Shri Chaker Kaur Singh
@ C.K. Singh
S/o Shri Sardar Kishen Singh
R/o L-2/43B, DDA Flats,
Kalkaji, New Delhi-110 018.
2. Shri Om Prakash Jain
S/o Shri Inder Sen Jain
R/o A-203, Plot No.27,
Gyatri Apartment, Sector-10,
Dwarka, New Delhi.
3. Shri O.S. Pathania
S/o Shri Jai Shi Ram
R/o K-256, Kangra Niketan,
Vikas Puri, Outer Ring Road,
New Delhi.

.... Applicants.

By Advocate: Shri P.K. Sharma.

Versus

Union of India through

1. Secretary,
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.
2. Secretary,
Ministry of Defence, New Delhi.
3. Joint Secretary (Training) & CAO,
Ministry of Defence,
Matcalf House, Delhi.

... Respondents

By Advocate: Mrs. Meenu Mainee.

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

The applicants have filed this OA for a direction to the respondents to refix their pay in new EDP pay scale of Rs.2000-32000 w.e.f. 1.1.1986 instead of 11.9.1989 with all consequential monetary and pensionary benefits. They also seek a direction to the respondents to implement the order of this Tribunal dated 13.10.1998 in OA 1741/1997 read with order of the Hon'ble High Court of Delhi dated 10.1.2002 in CWP No.1212/1999 in respect of the retired applicants, who were granted new pay scales of Rs.2375-3500 of DPA Grade 'B'.

2. The applicants were working as Statistical Investigator/ECC which has been redesignated as Data Processing Assistant Grade 'B' (applicant No.1 only) in the pay scale of Rs.1640-2900. The applicant No.1 retired on 31.9.1993 as Data Processing Assistant Grade 'B' (erstwhile Statistical Investigator) whereas the applicant Nos. 2 and 3 retired on 31.9.1991 and 31.3.1987 respectively from the post of Statistical Investigator/ECC, i.e., Edit Code Computation Supervisor. Pursuant to the recommendations of the 4th Pay Commission, the Government of India in 1986 constituted a Committee known as Dr. N. Sheshagiri Committee which made recommendations with regard to the posts and the pay scales of Electronic Data Processing (EDP) Organisation in the Government of India. The recommendations of that Committee were accepted by the Government and the designation, pay scales and functions of Group 'A', 'B' and 'C' officers in offices of various Departments/Ministries were revised vide order dated 8.1.1991 with effect from 11.9.1989. Now all the Ministries including the respondent Nos.2 and 3 have also revised the pay scale w.e.f.

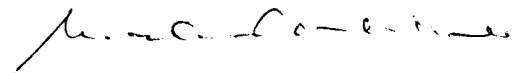
per order to 2-1

1.1.1986 instead of 11.9.1989 in accordance with the order of the Tribunal in OA Nos.351/99 and 1325/97. This Tribunal in several OAs filed by different persons had already directed the respondents to grant new EDP pay scales w.e.f. 1.1.1986 with all consequential monetary benefits but the benefits have been restricted to only the applicants in the OA, which is contrary to the decision of the courts that the benefit of decision on a particular rule or memorandum should be given to all similarly situated persons. The applicants are aggrieved that the benefit of the order of this Tribunal dated 16.2.2000 in OA 351/99 and 1.5.2000 in OA 1325/97 passed by this Tribunal have not been extended to them. Hence the OA.

3. The respondents have contested the OA on diverse pleas. It was stated that Shri Chaker Kaur Singh and two others filed an OA seeking revision of the pay scales in the Grade of DPA 'B' in the pay scale of Rs.2000-32000 w.e.f. 1.1.1986 and grant of new pay scale of Rs.2375-3500 of DPA 'B' (erstwhile Statistical Investigator) in accordance with the recommendations of the 4th Central Pay Commission. The Department of Electronics examined the rationalization of Pay scales of EDP posts by constituting a Committee. Based on the recommendations of the Committee, the Ministry of Finance, Department of Expenditure issued OM dated 11.9.1989 for rationalisation of pay scales of EDP posts effective from 11.9.1989. EDP cadre of ADGIT was further rationalised vide letter dated 6.12.1994. As per this order, Statistical Investigators were placed in the grade of Programmer in the scale of Rs.2375-3500 subject to meeting the technical qualification criteria. Those who did not meet the criteria/requirement were to be placed in the grade of DPA 'B' in the scale of Rs.2000-3200. On the basis of this letter, 10 Statistical Investigators and 4 Programmer Assistants were placed in the grade of Programmer vide

(Signature)

letter dated 15.1.1997. This order was challenged by Shri B.N. Sharma and Others in the grade of Programmer on the basis of technical qualification and they prayed that they should be given the same benefit as provided to their juniors. The Tribunal vide order dated 25.5.1997 directed the respondents to consider the case of the applicants without insisting on technical qualification. Accordingly, 10 seniormost Statistical Insvestigators and 6 seniormost Programme Assistants were placed in the grade of Programmer by letter dated 24.7.1997. This order was, however, challenged by Shri B.N. Sharma and Others in OA 1741/1997 and they sought for placement of all the applicants in the grade of Programmers, as technical qualification was done away with. The said OA was also allowed by the Tribunal vide order dated 13.10.1998 and the respondents were directed to place all the applicants in the grade of Programmer. This order was challenged by the respondents-department in CWP 1212/1999 contending that the two posts of Programmer have been newly created with authorisation of 16 posts and as such only 16 officers can be placed in the grade of Programmer. The writ Petition was dismissed by the Hon'ble High Court directing the respondents that all the Statistical Investigators/Programme Assistants/DPA 'B' existing as on 6.12.1994 are bound to be treated equally and cannot be discriminated. On the basis of this judgment, all the Statistical Investigators/Programme Assistants/DPA 'B' were placed in the grade of Programmer in the pre-revised scale of Rs2375-3500 w.e.f. 11.9.1989. The applicant Nos.1 and 2 were not given the benefit of the judgment as their name was not available on the record on the basis of which the judgment has been implemented. The applicant No.3 was not entitled for placement in the scale as he had retired on 31.3.1987. In the meantime, several OAs bearing Nos. OA 351/1999, 1325/98 and 337/2000 etc. were filed wherein the applicants



NB

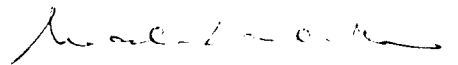
prayed that the revised pay scale should be implemented w.e.f. 1.1.1986 as the rationalization of the EDP cadre was done on the recommendations of the 4th Pay Commission. These OAs were allowed and all the applicants had been granted the revised pay scale w.e.f. 1.1.1986. The same benefit, i.e., revised pay scales were not extended to the present applicants, as no order as such has been issued by the Government of India for extending the similar benefit to the similarly situated persons. Other allegations made in the OA have also been controverted.

4. In the rejoinder, the applicants have reiterated their own case and denied the allegations made by the respondents.

5. We have heard the learned counsel for the parties and we have gone through the records.

6. The learned counsel for the applicants has argued that the applicants are persons similarly situated and that they should also be given the benefit of the order of this Tribunal dated 13.10.1988 passed in OA 1741 of 1997 and the order of the Hon'ble High Court dated 10.1.2002 in CWP 1212/1999 and that the revised pay scales should be given to them w.e.f. 1.1.1986 with all consequential and monetary benefits. At the time of hearing, the learning counsel for the applicants has also produced copy of another order of this Tribunal in OA No.804/2004 passed on 23.12.2004 which is also a case of similarly placed persons like the applicants.

7. Though the learned counsel for the respondents has strenuously argued that the applicants are not entitled to be granted the benefit of the orders passed in favour of some other persons but it has not been disputed that the facts of the present case and the facts of the case in OA No. 1741/1997 and in CWP 1212/1999 were identical and further that the

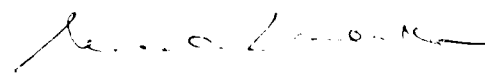


74

case of the present applicants is similar to the facts of the applicants in OA 804/2004 which has been decided by the Tribunal on 23.12.2004.

8. Hon'ble Supreme Court and this Tribunal has repeatedly deprecated the tendency of the administrative authorities to deny the benefit of an order to other similarly placed persons. Most of such orders are in the nature of judgment in rem and ought to have been applied to all in a service, group or category when they are similarly situated but chose not to file the judicial proceedings for redressal of grievances or preferred to wait for the outcome of a judicial proceedings filed by other similarly aggrieved persons. Seldom the administrative authorities apply the decisions of the court to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief even where a principle of law or common issue of general nature applicable to a group or a category of government employees is decided as against a matter relating to a specific grievance or anomaly of an individual employee. In the present case not in one case but so many cases pertaining to similar questions as raised in the present case have been pronounced by several benches of this Tribunal whereunder the revision of EDP pay scale is directed to be carried out with effect from 1.1.1986. Yet the respondents have the audacity to claim that those judgments, though of similarly placed persons, were in the nature of judgment in personem and benefit of those orders could not be extended since the present applicants were not party to those decided cases. Such an approach is highly unreasonable, grossly discriminatory and violative of Articles 14 and 16 of the Constitution of India, so unsustainable.

9. The Hon'ble Supreme Court in **K. Ajit Baboo and Others Vs. Union of India** and Others, JT 1997 (7) SC 24 has observed as under:-



“Whenever an application under Section 19 of the Act is filed and the question involved in the said application stands concluded by some earlier decision of the Tribunal, the Tribunal necessarily has to take into account the judgment rendered in earlier case, as a precedent and decide the application accordingly. The Tribunal may either agree with the view taken in the earlier judgment or it may dissent. If it dissents, the matter can be referred to a Larger Bench/Full Bench and place the matter before the Chairman for constituting a Larger Bench so that there may be no conflict upon two Benches”.

10. In view of the above, there is also no justification why the benefit of the orders passed by the Tribunal in other OAs should not be extended to the applicants of the present case deriving them to seek similar relief from the court. It was incumbent upon the respondents to have treated all similarly placed employees without any discrimination and on its own should have extended the benefit of the order of this Tribunal and as affirmed by the Hon'ble High Court all other similarly placed employees instead of creating disparity in the matter of the benefit accrued due to revision of pay scale to different persons differently. For the parity reason also, this OA deserves to be allowed.

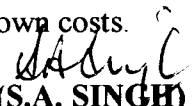
11. In the present case we have perused the judgment of this Tribunal in OA Nos. 351/1999, 1325/1997, 2639/99 and 1741/1999 (at pages 25, 29, 39) and also the copy of the order dated 23.12.2004 produced at the hearing. We have also perused the order of the Hon'ble High Court dated 10.1.2002 in CWP No.1212/1999 which is binding on this Bench. The facts and question of law involved in the present OA stands concluded by the above mentioned orders. We accordingly follow them. The applicants herein are entitled to be treated with equality and parity and should be granted the same relief which has been granted in the abovementioned case.

12. Accordingly for the reasons stated above, the OA is allowed. The respondents are directed to grant revised EDP scales to the applicants w.e.f. 1.1.1986 or with effect from .

[Handwritten signature]

the date of appointment whichever is later with all consequential benefits. In case of pensioners, the pension shall be refixed accordingly and they would be entitled to all consequential benefits. The order shall be implemented preferably within a period of three months from the date of receipt of a copy of this order. Parties are left to bear their

own costs.


(S.A. SINGH)
MEMBER (A)


(M.A. KHAN)
VICE CHAIRMAN (J)

Rakesh