

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1608/2004

New Delhi, this the 23rd day of February, 2005

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

Smt. Jai Devi
W/o Shri Ved Prakash Vohra
R/o House No. , Bhai Parmanand Colony
Delhi - 110 009.

...Applicant

(By Advocate Sh. P.K.Sharma)

V E R S U S

1. Secretary
Ministry of Communications
& Information Technology
Electronic Niketan
CGO Complex, Lodi Road
New Delhi - 110 003.
2. The Secretary
Ministry of Finance
North Block, New Delhi.
3. Director General
National Informatics Centre (NIC)
Ministry of Communications &
Information Technology
Department of Information Technology
National Informatics Centre
A-Block, CGO Complex
Lodi Road, New Delhi - 110 003.

...Respondents

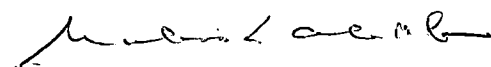
(By Advocate Sh. M.M.Sudan)

O R D E R (ORAL)

Mr. Justice M.A.Khan,

The applicant has filed the present OA for re-fixation of the pay as per FR 22 (1) (a) (i) and consequential benefits.

2. The applicant had joined the office of Planning Commission as Data Entry Operator in 1965. The post of DEO/DPA was merged with Tradesman 'B' of National Informatics Centre w.e.f 1.11.1988. The Sheshagiri Committee recommended the EDP scale, which was granted to the applicant w.e.f. 11.9.89. The applicant and 25 other similarly placed persons, who were aggrieved, filed OA 2371/98 for granting the



pay scale of Rs.1400-2300 w.e.f. 1.1.86. This Tribunal disposed of the OA vide order dated 9.9.99 by passing the following order: -

"11. The OA is partly allowed and the respondents are directed to fix the pay of the applicants w.e.f.1.1.86 in the pay scale of Rs.1400-2300. It is made clear that the applicants are not entitled for any arrears for the period from 1.1.86 to 11.9.89 or any monetary or other consequential benefits in view of such fixation of pay w.e.f. 1.1.86. No costs.

3. The applicant retired on attaining the age of superannuation on 30-11-2001. In accordance with Tribunal's order dated 9.9.99, the respondents fixed her pay by order dated 27.12.2000. The applicant is aggrieved firstly that her date of increment has been changed from 1.2.86 to 1.1.87 and further that on promotion to the grades of Tradesman 'D' in the scale of Rs.1600-2660/- w.e.f. 1.10.94 and to the next higher grade of Tradesman 'E' in the scale of Rs.6500-10,500/- w.e.f. 1-10-98, her pay has not been re-fixed in accordance with FR 22 (1) (a) (i).

4. The respondents on the other hand controverted the allegations of the applicant and have justified the pay fixed by them as per Office Order dated 27.10.2000 (Annexure R-1).

5. Arguments of the learned counsel for the applicant are two fold: firstly, the Full Bench of this Tribunal by order dated 31.7.2000 in OA 2639/99 had directed the department to re-fix the EDP Scale w.e.f. 1.1.86 and had also granted the consequential benefits to the applicant of the OA from that date. Since the applicant is similarly placed person, she should also, for parity of reasons, be granted the arrears and consequential benefits from that date. Secondly, the respondents have wrongly changed the date of her increment from 1.2.86 to 1.1.87 and have also not given the benefit of FR 22 (1) (a) (i) while refixing her salary on promotion w.e.f. 1.10.94 and 1.10.98 in the grades of Tradesman 'D' & 'E' respectively.

6. Learned counsel for the respondents has fairly admitted that the benefit of FR 22 has not been granted to the applicant while refixing her salary on promotion in the grade of Tradesman 'D' w.e.f. 1.10.94 and again on promotion to Tradesman 'E' w.e.f. 1.10.98. It is submitted that the applicant was not entitled to the said benefit in accordance with the order of this Tribunal dated 9.9.99 as the applicants would not be entitled to arrears for the period from 1.1.86 to 11.9.89 or any monetary or other consequential benefits due to fixation of pay w.e.f. 1.1.86.

Per Bench order to B

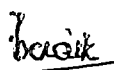
7. The respondent seemed to have completely misconstrued the order of the Tribunal dated 9.9.1999. The order simply stated that the applicant would not be entitled to the consequential and financial benefits for the period from 1.1.86 to 11.9.89. It did not mean that the applicant would not be given the benefit as per rules even after 11.9.89. It also did not mean that the applicant would not reckon the increment, which fell due on 1.2.86. The order of the Tribunal dated 9.9.99 required the respondents to re-fix the pay of the applicant w.e.f. 1.1.86. She would not be entitled to receive the arrears of salary and allowances for the period from 1.1.86 to 11.9.89. The order did not deprive her of the benefit which had accrued as a consequence of the fixation of her pay in the revised pay scale of Rs.1400-2300/- after 11.9.89. The order of the respondents changing her date of increment from 1.2.86 to 1.1.87 and denying the benefit of FR 22 while fixing her pay on 1.10.94 in the grade of Tradesman 'D' in the scale of pay of Rs.1600-2660/- or while fixing her pay on promotion to the post of Tradesman 'E' in the scale of pay of Rs. 6500-10,500/- on 1-10-98 is not correct. As regards the claim of the applicant that she should also be paid arrears due to re-fixation of her pay on 1.1.1986 because the Full Bench of this Tribunal had granted this benefit to the persons similarly situated working in some other departments, i.e., arrears of pay and allowances w.e.f. 1.1.86, it does not give a fresh cause of action to the applicant to file the present OA for grant of this benefit. The prayer made in this regard if allowed would amount to reviewing of the order of this Tribunal dated 9.9.99, in this OA which cannot be done in the present proceedings. Order dated 9.9.99 has become final. The applicant by filing a fresh OA cannot seek review of the order of this Tribunal dated 9.9.99 to that extent.

8. In view of above discussion, we allow the OA partly and direct the respondents to re-fix the pay of the applicant in accordance with the order of this Tribunal dated 9.9.99 passed in OA 2371/98. While fixing the pay of the applicant in the grade of Rs.1400-2300/-, the date of the increment of the applicant, which is 1.2.86, shall not be changed. Further on promotion of the applicant to the grade of Tradesman Gr. 'D' and Tradesman Gr. 'E' w.e.f. 1.10.94 and 1.10.98 respectively, her pay shall be re-fixed by the respondents giving her the benefit of FR 22 (1) (a) (i). But the applicant is not entitled for grant of the relief pleaded in sub-para B of para 8 of the OA.

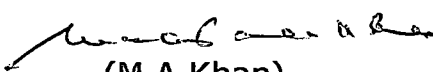


9. Learned counsel for the applicant has stated that a sum of Rs.40,000/- has been deducted by the respondents from the retirement dues of the applicant. The respondents are directed to recalculate the pay, pension and pensionary benefits of the applicant as a consequence of refixation in accordance with the order passed hereinabove and they shall make the payment of the amount due as a consequence thereto and refund the amount of Rs.40,000/- or any other sum which is recovered from the applicant in excess, preferably within a period of four months from the date of receipt of a copy of this order.

10. OA stands disposed of accordingly.


(S.K.Naik)
Member (A)

/vikas/


(M.A.Khan)
Vice-Chairman (J)