

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2783/92

T.A. No.

1998

CAT/13

5

DATE OF DECISION 3.2.98

S.P. Gupta

Petitioner

Shri R.K. Kaura

Advocate for the Petitioner(s)

Versus

U.O.I.

Respondent

Shri P.H. Ramchandani

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. K. Muthukumar, Member (A)

The Hon'ble Mr. Dr. A. Vedavalli, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Dr. A. Vedavalli)

Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2783/92

New Delhi this the 3rd day of February, 1997. (b)

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

S.P. Gupta,
S/o Shri Tara Chand Gupta,
R/o G.41, Shastri Nagar,
Ghaziabad (UP)-201 001. ...Applicant

(By Advocate Shri R.K. Kaura)

-Versus-

1. Union of India through
the Secretary to the Govt. of India,
Ministry of Defence,
South Block,
New Delhi.

2. The Director,
Defence Scientific Information
and Documentation Centre,
Metcalf House,
New Delhi. ...Respondents

(By Advocate Shri P.H. Ramchandani)

O R D E R

HON'BLE DR. A. VEDAVALLI, MEMBER (J):

The applicant in this O.A. seeks as the main relief from the respondents the grant of interest at the rate of 15% on the arrears of pay already fixed in the revised grade of Senior Proof Reader pursuant to this Tribunal's judgment dated 3.1.92 in OA-2647/90. He has also claimed the award of compensatory costs of Rs.5,000/- at least.

2. It is seen from the judgment of another Bench of this Tribunal dated 3.1.92 in OA-2647/90 (Shri S.K. Gupta vs. Union of India & Others) filed by the applicant earlier that the following reliefs were prayed for by him:

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(1)

"(i) The applicant may be granted the higher scale of pay of Rs.380-560 (pre-revised) w.e.f. 1.11.1975 as in the case of other colleagues who are similarly situated and have been given the same grade in 1988.

(ii) The pay may be fixed accordingly and arrears paid upto date with interest thereon @ 12% per annum, at least, within 3 months of the decision.

(iii) All other consequential benefits of pay and allowances etc. flowing therefrom may kindly be allowed."

3. The operative part of the said judgement is reproduced below:-

"The application is therefore disposed of with the direction to the respondents that the applicant shall be given the pre-revised scale of Rs.380-560 from April 1973 i.e. the date on which his other colleagues were given this grade. He will also be entitled to all the consequential benefits. The respondents shall comply with the above directions within a period of two months from the date of communication of this order.

6. There will be no order as to costs."

4. Consequent to the said judgment, it appears that the pay of the applicant was fixed by the respondents and full arrears were also paid to him on 26.6.92. However, the applicant filed a Contempt Petition No.167/92 before this Tribunal alleging that the contempt of the judgment of this Tribunal in the earlier OA (supra) was committed by the respondents as they have not paid the interest on the arrears due to him since 1.11.75 at the rate of 12% which is consequential and inherent in the judgment.

5. It was held by the Tribunal by their order dated 2.7.92 (Annexure A-II) in the said Contempt Petition, inter alia, thus:



"2. We have perused the judgement and we find that even though the petitioner in the OA had prayed for arrears with interest at the rate of 12%, no such interest was directed to be paid vide judgement in the OA. Therefore, the prayer for interest of arrears will be deemed to have been rejected.

3. As regards the actual payment of arrears, the learned counsel for the respondents placed before us the receipt dated 26.6.92 which shows that the petitioner was paid and he had received a sum of Rs.34,139.30 vide cheque No.901056 dated 26.6.92 on account of arrears of pay and allowances from November, 1975, i.e., the date from which he is given promotion to May, 1992. The petitioner admits having received the aforesaid payment.

4. It is seen from the above that no grievance of the petitioner as made out by him in the CCP survives. CCP is accordingly disposed of. Notice of contempt is discharged. No costs."

7. Thereafter the applicant filed the OA on 21.10.92.

8. The OA is contested by the respondents who have filed their counter. The applicant has filed rejoinder to the said counter broadly denying the various averments made by the respondents and generally reiterating the grounds raised by him in the OA.

9. The respondents have raised a preliminary objection in their counter, which has been pressed by their learned counsel also that the present OA is barred by the principle of res judicata, as the reliefs claimed in the present OA have already been adjudicated by the Tribunal, as admitted by the applicant himself in para 6 of the OA. The respondents have prayed that the OA may be dismissed on this ground itself.

10. In reply, learned counsel for the applicant contended that since the present OA is admitted by the Tribunal, the aforesaid objection cannot be sustained. He has

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relied upon the judgement of the Hon'ble Supreme Court in Nalini Kant Sinha vs. State of Bihar (1994 SCC (L&S) 377) and the order of the Madras Bench of this Tribunal in E.S. Rajabather vs. Secy. Govt. of India, Ministry of Transport (1990 (14) ATC 292).

11. Learned counsel for the respondents averred that in view of the explanation (v) to Section 11 of the Code of Civil Procedure, 1908 the contention of the applicant is devoid of any merit and the judgements relied upon by him also are not applicable to the present case.

12. We have heard the learned counsel for the parties and have perused the pleadings, material papers and relevant documents placed on record. Matter has been considered carefully.

13. It is evident from the judgement of this Tribunal dated 3.1.92 in OA-2647/90 (supra) readwith the order in the CCP dated 2.7.92 (supra) that even though the applicant had prayed for arrears and the interest at the rate of 12%, no such interest was directed to be paid by the Tribunal in the aforesaid OA and, therefore, the prayer for interest on arrears was deemed to have been rejected. Nothing has been brought to our notice to indicate that the aforesaid judgement in the earlier OA and the CCP thereto have not become final. The applicant has also not been able to show with supporting material as to how the factum of admission of the present OA by itself would bar the respondents from raising the legal plea as to res judicata at any stage of the case. Moreover, the judgement of the Hon'ble Supreme Court and the order of the Madras Bench of this Tribunal (supra) also do not help him

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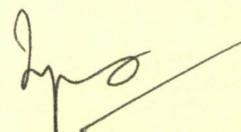
since they are not applicable to the facts of the present case in view of the directions given by the Tribunal in the earlier OA readwith the clear and specific finding in the order in the Contempt Petition thereto regarding the prayer of the applicant for interest on arrears, as noticed by the Tribunal (supra).

14. In the facts and circumstances of this case and in view of the foregoing discussion we are of the considered opinion that the main relief claimed by the applicant in the present OA regarding interest on arrears already stands adjudicated and hence the present OA is barred by the principle of res judicata and is not, therefore, maintainable.

15. In the result, the O.A. is dismissed on the aforesaid ground. No costs.

A. Vedavalli
3/2/98

(DR. A. VEDAVALLI)
MEMBER (J)


(K. MUTHUKUMAR)
MEMBER (A)

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