

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. Nos. 3319/92, 3321/92,
3322/92 & 3320/92

Date of decision 19.8.1993

Sh. H. K. Verma
Sh. A. K. Agarwal
Sh. C. K. Agarwal
Sh. M. S. Agarwal

..... Applicants

U.O.I. & Others

..... Respondents

FOR THE APPLICANTS

... Sh. K. L. Bhandula, counsel

FOR THE RESPONDENTS

... Sh. M. L. Verma, counsel

CORAM

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

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?

JUDGEMENT

(delivered by Hon'ble Sh. B. S. Hegde, Member (J))

The applicants in these cases are working in Central Water Commission and are similarly situated/placed. Since their grievances are also common in all these cases, hence I propose to dispose of these OAs in one Judgement.

Sh. B. S. Hegde
The applicants were working as Deputy Directors, Central Water Commission, New Delhi have filed these applications under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

6

(i) To direct the Respondents to grant similar relief /benefits of judgement dated 31.5.1991 in O.A. No. 2041/90 (Naresh Kumar and Others) to the applicants who are similarly placed.

(ii) To direct the Respondents to fix their pay in the grade of Deputy Director (Scale 1100-1600, (prerevised) and revised scale of Rs 3000-4500 giving them the benefit of adhoc promotion as Deputy Directors followed by their regular promotion without any break in service, as they drew their first increment on the dates, they completed one year's service as Deputy Directors, raising their pay to the stage of Rs 1150/- as indicated below:-

S.No.	Name of applicants	Date of appointment as Deputy Director.	Date of next increment.
1.	S/Sh.C.K. Agarwal	1.1.85	1.1.86
2.	" H.K. Verma	1.2.85	1.2.86
3.	" M.S. Agarwal	1.4.85	1.4.86
4.	" A.K. Agarwal	1.1.86	1.1.87

2. The brief facts of the case are that the applicants joined the Central Water Commission as Assistant Director/ Assistant Executive Engineer with effect from the dates mentioned against each as below:-

Ans

S.No.	Name of the applicants	Date of appointment
<u>S/Shri</u>		
1.	C.K. Agarwal	7.10.78
2.	H.K. Verma	7.11.78
3.	M.S. Agarwal	31.3.79
4.	A.K. Agarwal	17.11.79

and was subsequently promoted as Deputy Directors on adhoc basis in pre-revised pay scale of Rs 1100-1600 with effect from the dates mentioned against each as indicated below:-

S.No.	Name of the applicants	Date of promotion
1.	H.K.Verma	27.1.1983
2.	C.K.Agarwal	27.1.1983
3.	M.S.Agarwal	31.3.1983
4.	A.K.Agarwal	31.12.1983

subsequently they were regularised w.e.f. the date mentioned against each:-

S.No.	Name of the applicants	Date of regularisation
1.	H.K.Verma	22.1.1985
2.	C.K.Agarwal	22.1.1985
3.	M.S.Agarwal	22.1.1985
4.	A.K.Agarwal	28.3.1985

and their basic pay were refixed in the scale of pay of Rs 1100-1600 from the dates mentioned against each:-

Ans

S.No.	Name of applicants	Date of refixation	Pay fixed of pay.
1.	H.K.Verma	22.1.1985	Rs 1100/-
2.	A.K.Agarwal	28.3.1985	Rs 1100/-
3.	C.K.Agarwal	22.1.85	Rs 1100/-
4.	M.S.Agarwal	22.1.85	Rs 1100/-

although, all have earned an increment while holding the adhoc promotion, their pay was fixed in the minimum scale.

Accordingly, the learned counsel for the applicants submitted that the pay of the applicants (Senior Time Scale) be fixed in the grade of Deputy Directors on the dates of their adhoc appointments/ promotions, as they drew their first increment on the dates they completed one years service as Deputy Directors, as such their pay be fixed at Rs 1150/-.

It is an undisputed fact that the adhoc promotion of the applicants were allowed by regular appointments in the grade of Deputy Director in the scale Rs 1100-1600 as indicated below:-

S.No. Name of the applicants

1.	Mr. H. K. Verma	22.1.1985
2.	Mr. C. K. Agarwal	22.1.1985
3.	Mr. M. S. Agarwal	22.1.1985
4.	Mr. A. K. Agarwal	28.3.1985

Their pay was refixed with reference to their notional pay of Assistant Directors in the Junior Time Scale of Rs 700-1300 (pre-revised) ignoring the services rendered by them in the Senior Time Scale of Deputy Directors on adhoc basis which counts for increments under F.R. 26. In this way, the refixation of pay on promotion on regular basis has resulted in loss to the applicants as they were denied the benefit of adhoc service. Earlier Sh. O.P. Khanda and others filed Section application under 19 of the Administrative Tribunals

Act, 1985 before this Tribunal (OA No.2377/89) seeking
relief for giving benefits for adhoc promotion to the
higher grade of Deputy Directors followed by their
regular promotion as Deputy Directors w.e.f. 22.1.1985
towards fixation of their pay and consequential arrears.

In Judgement dated 25.4.1989, the Tribunal allowed the
above applications and directed the respondents to refix
their salary and pay them arrears due to them within
three months. The respondents implemented the judgement
thereafter, Those who were similarly situated/placed
taking advantage of that judgement filed representation
to the competent authority, but did not receive any
favourable reply. Accordingly, Naresh Kumar and others
filed an application in (OA No.2014/90) before the
Tribunal and got favourable orders in this behalf.
On receipt of the Tribunal's judgement in OA 2014/90
delivered on 6.6.1991. The present applicants have also
made representations to the competent authority urging
that they may also be given the same benefits as
it was held in para 9 of the said judgement.

Ken
The contention raised by the learned counsel
for the applicants is that since the applicants are also
similarly situated/placed like others refers to above,
they were under the impression that they would also be
given the same benefits. They made a representation to
the competent authority, as they did not get favourable
reply to their representation, they approached this
Tribunal by way of these applications.

The respondents in their reply did not dispute the facts stated by the applicants. They have only contended by saying that these applications are time barred as they have filed these applications after lapse of one year and also stated as the benefits granted in the favour of Sh. Naresh Kumar and others in DA No. 2014/90 cannot, *ipso facto*, be extended to other officers who are not a party to that D.A.

The applicants though filed their representation on the dates as mentioned against each below:-

S.No.	Name of the applicant	Date of Filed representation.
1.	Sh. H.K. Verma	18.9.91
2.	" A.K. Agarwal	18.9.91
3.	" M.S. Agarwal	19.9.91
4.	" C.K. Agarwal	30.10.91

which have been rejected vide order dated 20.12.1991

stating that relief sought and secured by an aggrieved officer from CAT is applicable only to that officer and it cannot, *ipso facto*, be extended to other officers.

These applicants made cogent reason, why they could not file these applications on 19th, 20th Dec., 1992 being closed holidays i.e. Saturday and Sunday it is permissible under law to file the next same on the / reopening day. On the contrary, reply filed by the respondents does not controvert any of the averment of facts that the petitioners have made. The facts of the present case is similar to that of the decision rendered in OA No. 2104/90 on 31.5.91. Hence the contention of the respondent that it is barred by limitation is not tenable.

It is an undisputed fact that there is no break in adhoc service to that of regular service. It is not necessary that everyone should come to the court of law to secure the relief, it is sufficient that if the applicants are able to establish that they are also similarly placed than those who got similar benefits. Legally, the applicants normally cannot approach the Tribunal for any relief based on the judgement of the Tribunal, however, in the instant case, the applicants relying upon the judgement of the Tribunal made representations to grant similar relief, but the same was rejected by the respondents which gave fresh cause

12

of action to the applicants, therefore, the contention of the respondents that the petitions is barred by time is not tenable, as they filed these petitions within a period of 1 year.

I have gone through the records and pleadings and have considered the rival contentions of the parties. Relying upon the decisions of the Supreme Court in *Inderpal Yadav Vs. U.O.I. (1985)* a Prof. C.D. Tane ^{of} Vs. University/Bombay (1989). On the proposition that persons who are similarly situated should be given same treatment and the fact that they have not approached the court, should not place them at a disadvantageous position.

In the light of the above, the applicants are entitled to succeed in this case. The DA's are allowed and accordingly, the respondents are directed to grant similar/relief/benefits of judgement dt. 6.6.91 in OA No. 2041/90 in Naresh Kumar & Others to the applicants who are similarly placed. The respondents shall also fix the salary of the applicants giving them the benefit of adhoc promotion as Deputy Directors

MH

followed by their regular promotion without any
break and pay arrears in the same manner as was done
in the case of the Naresh Kumar and Others. The
comply
Respondents shall with the above directions within
a period of two months from the date of receipt of
this order. In conclusion, there shall be no orders
as to costs.

B.S. Hegde 19/8/93
(B.S. HEGDE)
MEMBER (J)