

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

MA.3417/93 in OA:2397/93

New Delhi this the 4th January 1994.

1. Rameshwar Dayal
2. Smt. Harvinder Kaur
3. Smt. Sunita Anand

All working in the office of
Directorate General of Supplies
and Disposals, Parliament Street,
New Delhi 110 001.

Applicants

By Advocate Shri Doraisamy with
Shri Sant Singh.

Versus

Director General of Supplies & Disposals
Parliament Street,
New Delhi 110 001.

Union of India through:
Secretary to Government of India,
Department of Supply,
'C' Wing, Nirman Bhavan,
New Delhi 110 011.

Respondents

By Advocate Shri N.S. Mehta.

JUDGEMENT (Oral)
(delivered by Hon. Member (Judl.) Shri C.J. ROY)

This application is filed by 3 persons against the order of the respondents dated 26.10.93 by which their request for extending the benefit of this Tribunal's Judgement dated 24.1.92 in OA No.438/91 in the case of Shri M.K. Narula and Ors. versus Director General of Supplies and Disposals and another was rejected vide which the respondents were directed not to recover any amounts from the applicants on the ground of over-payment of pay and allowances and to refund to the applicants, recovery already made if any.

m

2. These three applicants have filed an MP.3417/93 claiming that all the applicants herein are entitled for the same relief arising out of the same cause of action and that they have a common interest.

Heard. The MP is allowed.

3. The facts of the case are that the applicant No.1 is working as Assistant while applicant No.2 and 3 are working as UDCs in the Directorate General of Supplies and Disposals(DGS&D-in short). Originally, they worked as Senior Typist/Stenographer Grade-D in the cadre of Central Secretariat Stenographers Service(CSSS) and were drawing the scale of pay of Rs.130-280 and 330-10-360-EB-12-500-EB-15-560 w.e.f. 1.1.1973 for the respective periods shown against each in the statement at Annexure A-2.

4. The applicants allege that the respondent No.1, without any show cause notice issued orders in November 1988 to February 1989 fixing the pay of 22 officials including the three applicants herein, retrospectively many stages below what they had actually drawn on the relevant dates of the orders and the respondent No.1 also ordered recovery of alleged over-payments. A consolidated copy of the payments made by the respondents to these applicants is at Annexure A-3. At page 20 of the paper book the Annexure A-3 office order No.22/91, issued by the Directorate General of supplies and Disposals dated 7th February 1991, it is stated that in order to effect recoveries of over-payments of pay and allowances arising on re-fixation of pay in the Grade

7

6

of UDC, under the FR 22-C, it has been decided to recover the said overpayments in respect of the persons concerned as indicated in the Schedule of this Order. This order was the subject matter in OA 438/91 which was disposed of in favour of the applicants with the following directions:

1. We set aside and quash the impugned order dated 07.02.1991 at Annexure A-2 to the application and direct the respondents not to recover any amounts from the applicants on the ground of over payment of pay and allowances. Recovery already made, if any, shall be refunded to the applicants.
2. We uphold the validity of refixation of pay and allowances of the applicants prospectively, that is, from the date of issue of the order.
3. We allow MP.2275/91 and direct that the sum of Rs.15,813/- withheld from the gratuity of Shri D.K.Mathur, the petitioner therein, shall be released to him within a period of two months from the date of communication of this order. There will be no order as to costs.
5. I have heard the submissions made by the learned counsel for both parties and perused the documents on record including the judgement cited supra. The judgement carefully covers the applicants claim. The objection taken by the respondents that the benefit of the above judgement cannot be extended to the applicants herein and also their claim is barred by limitation are negatived in view of the fact that the fixation of pay is a continuous cause of action and limitation as per Section-21 is not applicable. Besides, similarly situated persons are also entitled to be given the same benefits. Though it is a well settled case, I chose however, to rely on the judgement in the case of Sunilendu Chowdhury and others versus Union of India and others (ATR 1992(2) CAT 179, decided in the Calcutta Bench of the Tribunal, in which, the two points as mentioned by me

m

7

earlier have also been dealt with. It is urged before me that these three applicants have been suffering the recovery of the alleged excess payments arising out of the refixation of pay since October 1993.

6. In the conspectus of the above facts and circumstances of the case, the applicants herein, have made out a case for grant of relief, as prayed for in the application. Applying the reasoning given in the Judgment in OA 438/91, I have no hesitation to give the same directions to the respondents.

1. I set aside and quash the impugned order dated 26.10.93 (Annexure A-1) and direct the respondents not to recover any amounts from the applicants on the ground of over-payment of pay and allowances. Recovery already made, if any, shall be refunded to the applicants.

2. I uphold the validity of refixation of pay and allowances of the applicants prospectively, that is, from the date of issue of the order.

3. The above directions shall be complied with as expeditiously as possible, preferably within a period of two months from the date of communication of this judgement.

7. The OA is allowed and the case is disposed of with no order as to costs.

C. J. Roy
(C.J. ROY)
Member(J)