

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

O.A. No. / I.A. No. 1152 of 94

Date of decision 09.04.02

Haridwar Sharma

Applicant(s)

Sri O.P. Gupta

Counsel for the  
Applicant (s)

VERSUS

Union of India and Others

Respondent (s)

Km Sadhana Srivastave

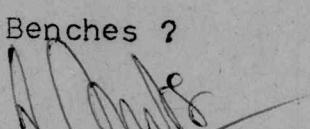
Counsel for the  
Respondent(s)

C O R A M

Hon'ble Mr. Justice R.R.K. Trivedi V.C./Member (-)

Hon'ble Mr. Gen. K.K. Srivastave Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
4. Whether to be circulated to all Benches ?

  
Signature

PIYUSH/

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 9th day of April 2002

Original Application no. 1152 of 1994.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj Gen K.K. Srivastava, A.M.

Haridwar Sharma, S/o Phool Chandra Sharma,  
R/o D-355, Barra World Bank Colony,  
Kanpur.

... Applicant

By Adv : Sri O.P. Gupta

V E R S U S

1. Supdt. Of Circle Stamp Depo, Kanpur, C/o P.M.G. Office, Kanpur.
2. Director General Department of Post, Ministry of Communication, Govt. of India, New Delhi.
3. Union of India through Secretary, Ministry of Communication, Govt. of India, New Delhi.

... Respondents

By Adv : Km. Sadhana Srivastava

O R D E R

Hon'ble Maj Gen K.K. Srivastava, A.M.

In this OA filed under section 19 of the A.T. Act, 1985 the applicant has challenged the order dated 24.8.1993 (Ann A VII) of Superintendent Circle Stamp Depot, Kanpur, conveying the decision of Respondent no. 2 Director General Posts (in short DGP) rejecting the request of the applicant for grant of prescribed pay scale for the post of Carpenter and has prayed that impugned order dated 24.8.1993 be quashed and respondents be directed to grant and pay correct pay scale to the applicant i.e. Rs. 260-350 as per revised pay <sup>rules</sup> ~~rules~~.

11 2 11

subsequently revised as Rs. 950-1500 as per recommendation <sup>by</sup> ~~of~~ 4th Pay Commission w.e.f. 01.01.1986. The applicant has also claimed the difference of pay alongwith interest.

2. The facts, in short, giving rise to this OA are that the applicant is working in the office of respondent no. 1 w.e.f. <sup>30.08.1983</sup><sup>a</sup>. He was appointed as Carpenter in the pay scale of Rs. 210-290 which was revised to Rs. 800-1150 w.e.f. 1.1.1986. <sup>by</sup> ~~vide~~ order dated 19.2.1979 sanctioned for creation <sup>by</sup> ~~of~~ one post of Carpenter in the pay scale of Rs. 210-290. Selection was held <sup>in</sup> August 1983 and the applicant was appointed <sup>by</sup> ~~vide~~ order dated 30.8.1983 as Carpenter in the scale of Rs. 210-290. Applicant was confirmed as Carpenter w.e.f. 1.8.1988 <sup>by</sup> ~~vide~~ order dated 11.5.1990 in the revised pay scale of Rs. 800-1150. As per applicant he made several representations before the department that he should be allowed correct pay scale but his grievances was not accepted at any level. Ultimately he made a representation to D.G.P. <sup>in</sup> ~~which~~ has been rejected as conveyed through impugned order dated 24.8.1993 (Ann A-VII). Hence this O.A. The claim of the applicant has been contested by respondents ~~and~~ they have filed counter affidavit.

3. Heard Shri O.P. Gupta, learned counsel for the applicant and Miss Sadhana Srivastava, learned counsel for the respondents and perused records. Sri OP Gupta, learned counsel for the applicant submitted that pay scale of Carpenter as per revised pay rules 1973, was Rs. 260-350 which was further revised to Rs. 950-1500 by 4th Pay Commission w.e.f. 1.1.1986. There was no justification to create <sup>in</sup> Carpenter's post in the grade applicable for Assistant Carpenter i.e. Rs. 210-290. Director General P.&T erred in this regard. Learned counsel assailed the argume-

nts of the respondents that the applicant was appointed in the scale of Rs. 210-290 therefore has no claim for higher grade. Sri Gupta submitted that the applicant was appointed against post of a Carpenter and not against any scale. Since the grade of Carpenter was Rs. 260-350 which was revised to Rs. 950-1500 by 4th Pay Commission, applicant is entitled for the same.

4. Sri OP Gupta, learned counsel for the applicant further submitted that similar claim of wiremen was accepted by departmental authorities and they were given the grade of Rs. 950-1500 as is evident from Chief Post Master General (in short CPMG) UP Lucknow orders dated 24.1.1991 (Ann VIII) and 15.5.1991 <sup>in</sup> ~~and therefore~~ (Ann IX) applicant is also entitled for the same. Inviting our attention to Ministry of Finance (Dept. of Expenditure) notification dated 31.12.1973, the learned counsel argued that under Ministry of Communication (P&T) Department the post of Carpenter has been shown carrying a scale of Rs. 260-350 and the scale of Assistant Carpenter has been shown as Rs. 210-290. <sup>in</sup> The scale of Rs. 260-350, Sri OP Gupta argued that there is no doubt that the post of Carpenter carries Scale of Rs. 950-1500 as mentioned in Gazette of India notification dated 16.1.1988.

5. Resisting the claim of the applicant Miss Sadhana Srivastava, learned counsel for the respondents submitted that the applicant was appointed on 30.8.1983 as Carpenter in the scale of Rs. 210-290 and he was granted the due revised scale of pay. If the applicant has any grievance he should have agitated the matter before this Tribunal within a period of limitation which he has not done. Therefore, the claim of the applicant is time barred and he cannot seek relief at this belated stage.

11 4 11

Miss Sadhana Srivastava, also contended that applicant made only one representation on 3.12.1992 which was forwarded by Post Master General, Kanpur to D.G. Posts <sup>in</sup> for consideration and D.G. Posts <sup>in</sup> rejected the same.

6. The learned counsel for the respondents also submitted that under the provisions of Appendix 47 of Post and Telegraphs Manual Vol IV <sup>part II</sup> the scale of the pay of carpenter was prescribed as Rs. 85-128 which was revised by the 3rd Pay Commission to Rs. 210-290 and finally to Rs. 800-1150 by the 4th Pay Commission and therefore, D.G. Posts <sup>in</sup> has committed no error of law in sanctioning the post of Carpenter in scale of Rs. 210-290 against which the applicant was appointed. The learned counsel further submitted that the recruitment of Carpenters/Painters/Cycle Mechanics have been classified as 'General Central Services Class III non gazetted non Ministerial in P&T Vol IV part II and not included in work charged staff. Therefore correct scale of pay has been given to the applicant.

6. The learned counsel for the respondents finally submitted that the case of Wirement cited by the applicant was entirely different and has no relevance to the present case. Not a single Carpenter has been given the scale of Rs. 260-350 in the Department of Posts.

7. We have given careful consideration to the submission of the parties. The main grievance of the applicant is that he is entitled to get the scale of Rs. 260-350 (RPS 950-1500) as he has been appointed as a Carptnter, a post which carries scale of Rs. 260-350. D.G. Posts <sup>in</sup> vide letter dated 19.02.1970 (Ann A-1) sanctioned the post of Carpenter for Postal Stamp Depot in the scale of Rs. 210-290. The applicant, while applying for the same was fully aware about the scale it carried.

// 5 //

Therefore, he has not reason to feel aggrieved. Besides in our opinion the action of D.G.P. in sanctioning the post of Carpenter in scale of Rs. 210-290 in consultation with the P & T finance does not suffer from any error of law.

There ~~may be~~ <sup>is</sup> substance in the submission of learned counsel for the respondents, that there are specific provisions for the recruitment of Carpenter etc in appendix 47 of P & T Manual Vol IV part II and the scale of Carpenter is prescribed as Rs. 85-128 which was revised to Rs. 210-290 by 3rd Pay Commission and to Rs. 800-1150 by the 4th Pay Commission and the decision of D.G.P. in sanctioning the post of Carpenter in scale of Rs. 210-290 vide letter dated 19.02.1979 is in accordance with rules. <sup>However</sup> ~~but~~ we do not give any credence to this because such an averment has been made in para 15 of counter affidavit but the annexure CA-I mentioned therein has not been attached.

8. The learned counsel for the applicant has invited our attention to Ministry of Finance notification dated 31.12.1973 in which the scale of Carpenter under Ministry of Communication Posts and Telegraphs Department has been given as Rs. 260-350. This scale in the said notification in "Sub Section 4 - Posts and Telegraphs Department" has been given in respect of work charged Establishment. In our opinion the post of Carpenter against which the applicant was appointed on 30.8.1993 is not a work charged post. Therefore, the applicant is not entitled for the scale of Rs. 260-350 (pre revised).

9. We have also considered the argument of the learned counsel for the applicant that similar claim of wiremen was accepted by the department. In this connection we would like to point out that the case of Wiremen is easily distinguishable to that of the applicant and it cannot be equated with Wiremen.

// 6 //

The ~~persual~~ of order of CPMG, UP Circle, Lucknow dated 24.1.1991 (Ann VIII) and 15.5.1991 (Ann IX) makes it clear that the appointments of the Electrical maintenance Staff attached to Postal Division was irregularly made with designation as Assistant Wiremen against the sanctioned post of Wiremen carrying the scale of Rs. 260-350. This irregularity was removed by the said orders of C.P.M.G.. In case of applicant no such irregularity was committed. He was duly appointed as Carpenter in the scale of Rs. 210-290.

10. Learned counsel for the respondents submitted that the claim of the applicant is barred by period of limitation. Applicant joined as Carpenter on 30.8.1983 in scale of Rs. 210-290 and was confirmed on 1.9.1988 in the same scale. There is nothing on record to show that the applicant represented to the authorities about the anomaly in his scale. We find only one representation of the applicant dated 3.12.1992 addressed to D.G. Department of Posts (Ann AVI) on record, in Para 8 of which he has mentioned that he had exhausted all the channels upto that of C.P.M.G. Therefore, the proper course for the applicant was to approach this Tribunal, ~~the moment if his first representation was rejected, within period of limitation, which he did not. It is a settled legal position that~~ <sup>filings of subsequent remedies</sup> does not extend the period of limitation. In absence of any representation on record except that of 3.12.1992, in our opinion the cause of action arose on 11.5.1990 when the order of confirmation of the applicant in the scale of Rs. 210-290 was issued and the applicant filed this O.A. on 28.7.1994. Therefore, the claim of the applicant is highly

// 7 //

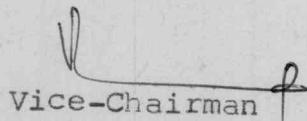
time barred. The applicant has failed to challenge the order of D.G.P&T dated 19.02.1979 by which the post in question had been created and as such not entitled to get relief.

11. In view of the aforesaid discussion we have no good ground to intervene and grant relief to the applicant. The OA is devoid of merits and also time barred, hence dismissed.

12. There shall be no order as to costs.



Member (A)



Vice-Chairman

/pc/