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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No.176 of 1986

Date of decision : July 24, 1987

Bharat Chandra Swain .. Petitioner

versus

Union of India & others .. Respondents

Mr A.K Mohapatra .. For Petitioner
Advocate

Mr A.B Misra, .. For Respondents
Senior Standing Counsel(Central)

C O R A M

THE HON'BLE MR K.P ACHARYA, MEMBER (JUDL)

A N D

THE HON'BLE MR S.D PRASAD, MEMBER (ADMN)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the reporters or not ? Yes
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

S.D PRASAD, MEMBER (ADMN) In this application, under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for ^a direction to the respondents to pay him in the scales of Rs.130-300/- with effect from 18.1.1962, Rs.290-560/- with effect from 1.1.73, and Rs.425-700/- with effect from 13.1.81.

2. The facts of the case, stated briefly, are that the applicant was appointed as Patwari in the Dandakaranya Development Authority (DDA, for short) on 26.9.59 in the scale of pay of Rs.85-110/-. Subsequently, he was promoted to the post of Revenue Inspector in the pay-scale of Rs.125-155/- with effect from 18.1.1962. On 13.1.81 he was promoted to the post of Land Survey Superintendent. Based on the recommendations of the IIIrd Pay Commission, the scales of pay applicable to Revenue Inspectors and Land Survey Superintendents were revised to Rs.260-400/- and Rs.330-480/- respectively, whereas the pay-scales for corresponding posts in other departments were fixed at Rs.290-560/- and Rs.425-700/- respectively. Annexures 1 and 2 are letters dated the 14th July 1973 and the 17th August 1974, ^{respectively,} from which it appears that the DDA recommended to the Government of India (Ministry of Labour and Rehabilitation) to do away with the aforesaid differences in the pay-scales ^{these} between the employees in DDA and ^{outside}. It appears

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from Annexure 3 dated the 20th August 1981 that the recommendations of the DDA in this regard were not accepted by the Government of India. Certain other Annexures have also been filed alongwith the application to show that the matter concerning equalisation of DDA pay-scales with those obtaining in other departments was kept alive, atleast from the DDA side. *It appears that* A Memorandum on this subject was also presented before the IVth Pay Commission, which, however, did not accept the DDA's view-point. It appears that in O.J.C No. 1498 of 1979, the Hon'ble Orissa High Court allowed a writ petition filed by two Patwaries of the Land Survey wing of the DDA and directed that they should be paid in the scale of Rs.260-350/- as in the case of other departments, and not in the scale of Rs.200-260/- recommended by the IIIrd Pay Commission. This decision has been made the basis for a contention that similar revision must also be made for the Revenue Inspectors as well as Land Survey Superintendents because, it is argued, that the posts of Patwaries, constitute feeder post for Revenue Inspectors and that it would be anomalous for the Patwaries to be in the scale of Rs.260-330/- while the pay scale for Revenue Inspectors is Rs.260-400/-.

3. The respondents have in their counter-affidavit refuted the aforesaid contentions and claims made by the applicant.

4. Without going into the merits of the applicant's claims, which were apparently not accepted by the IIIrd as well as ^{the} IVth Pay Commissions, this application can be

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disposed of on the short point of limitation under Section 21 of the Administrative Tribunals Act.

It is evident that the applicant's grievance relates to, and emanates from, the recommendations of the IIIrd Pay Commission and the decisions of the Central Govt. thereon. Apparently the recommendations of the IIIrd Pay Commission were made before the 14th July 1973, which is the date of the letter of DDA in Annexure 1. There is nothing to indicate that the recommendations of the IIIrd Pay Commission, in this regard, were modified in any way by the Central Government. On the other hand, the minutes of the proceedings of the Inaugural Meeting of the Regional Council of Dandakaranya Project held on 17.8.1981, vide Annexure 3, clearly indicate that the Central Government "had not agreed to revise the scales on the basis of the pre-revised scales being lower". There can be no iota of doubt, therefore, that the decisions which are sought to be challenged in the present application were taken long before 17.8.81. Section 21(2) of the Administrative Tribunals Act clearly excludes cases "the grievance in respect of which ... had arisen by reason of any order made at any time" beyond 3 years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal became exercisable under the Act "in respect of the matters to which such order relates", i.e., 1.11.1985. Thus, any matter

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Thus ~~any~~^{no} matter in respect of which the cause of action had arisen prior to 1.11.1982 and in respect of which no proceedings for redressal of such grievance had been commenced before any High Court, can be brought within the purview of this Tribunal. The power of condonation vested in the Tribunal under sub-section(3) ibid relates to the period of 6 months specified in sub-section(2) and does not extend to the period of 3 years mentioned therein. In other words, 1.11.1982 represents a cut-off date statutorily laid down and the Tribunal is precluded totally from entertaining any claims relating to matters the cause of action whereof had arisen before that date. I am supported in this view by the decision of the Hon'ble Chairman, Principal Bench [in ATR 1986(1) C.A.T 28 (R.N Singhal versus Union of India).]

5. Mr A.K Mohapatra, learned Counsel for the applicant, has relied on A.T.R 1986(2) C.A.T 47 (Satish Kumar and others versus U.P:S.C and others) to support the maintainability of the present application on the ground that if certain relief has been granted to some persons (e.g Patwaries in this case), persons otherwise similarly situated, though not moving the Tribunal, are entitled to the same relief on the ground of equitable justice. This decision relates to Section 22 of the Administrative Tribunals Act and is not on all fours with the facts or claims relating to the present application. For one thing, the decision of the

Hon'ble High Court of Orissa in O.J.C No.1498 of 1979 is concerning Patwaries. The applicant is not justified in extending that decision to the higher ranks, namely, Revenue Inspectors and Land Survey Superintendents. The question whether the contention made on behalf of the applicant in regard to pay-scales of feeder posts being the same as that of the promotional posts is tenable or not and, even if tenable, whether it would automatically justify similar upgradation of ~~posts~~ ^{pay-scales} in higher ranks would require fresh adjudication. As stated earlier, Section 21(2) puts an insurmountable barrier preventing us from entering into any such adjudication at this stage.//

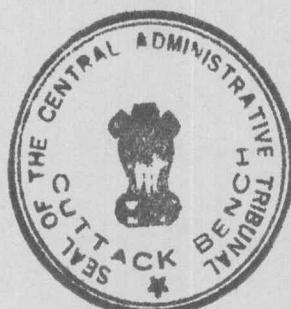
6. Mr Mohapatra has next relied on 1979 (1) SLR 757, which is a decision of the Hon'ble Supreme Court, to contend that Government " should not ordinarily take up the plea of limitation to defeat the just claim of a citizen". This decision relates to refund of certain monetary claims by way of ~~wharfage~~, demurrage, etc. Evidently the applicant cannot derive any support ^{from this} for his case which involves questions of much wider import than mere monetary claim. Besides, the guiding words in the aforesaid decision of the Hon'ble Supreme Court are " should not ordinarily take up the plea of limitation". A statutory barrier cannot obviously come within the scope of "ordinarily". Therefore, this ruling is also of no help to the applicant.

7. Lastly, Mr Mohapatra has argued that denial of a higher scale of pay constitutes a continuing grievance and, therefore, his "right of action" subsists

and he is certainly entitled to claim the benefit of a higher scale for the period which is not barred by limitation. In other words , his contention is that he is entitled to the scale of Rs.425-700/- atleast ^{would} from 1.11.1982, implying that he ~~foregoes~~ ^{for} his claim for the period before 1.11.1982 . Apart from the fact that this would lead to an obviously anomalous position that there would be two scales of pay for the same post, one prior to 1.11.82 and another after that date, I do not think Mr Mohapatra is right in equating "right of action" with "cause of action". The law of limitation, particularly as laid down in Section 21 of the Administrative Tribunals Act, is related to the "order" giving rise to the grievance. Since the order itself is concerning the scale of pay, no ~~amount~~ ^{amount} of verbal jugglery can really alter the legal position in this regard and vest jurisdiction in the Tribunal to consider a matter which has been put ~~out-of-bound~~ ^{under the statute} for it.

9. In view of the foregoing discussion and findings, I am of the view that the application is badly time-barred and hit by the provisions of Section 21(2) of the Administrative Tribunals Act,1985. The application is, therefore, dismissed. There shall be no order for the costs.

K.P ACHARYA, MEMBER (JUDICIAL)



D.S. Acharya 24.7.87
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Member (Admn)
I agree
K. Joseph 24.7.87
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Member (Judl)