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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.293 OF 1987.

Date of Decision - 31st August, 1989.

Niranjan Choudhury, son of
late Baikuntha Nath Pradhan,
at present working as
Assistant Teacher, M.P.V.31,
Primary School, P.O.Kalimela,
District- Koraput.

... Applicant

Versus

1. Union of India, represented by
the Secretary in the Department of
Home Affairs, Rehabilitation
Division, Jaisalmer House,
Mansingh Road, New Delhi-110 001.
2. Chief Administrator,
Dandakaranya Project, Koraput,
At, P.O. and District-Koraput,
Orissa.
3. Zonal Administrator,
Dandakaranya Project,
At, P.O. Malkangiri,
District-Koraput.
4. Executive Officer,
Dandakaranya Project,
At, P.O. Malkangiri,
District-Koraput.

.... Respondents

M/s Devananda Misra, Deepak Misra
and Anil Deo.

... For Applicant

Mr. Ganeswar Rath, Senior
Standing Counsel (Central)

... For Respondents

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN
AND

THE HONOURABLE MR. N. SEN GUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
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J U D G M E N T .

B.R. PATEL, VICE- CHAIRMAN. The applicant joined as an Assistant Teacher in a primary school of the Dandakaranya Development Authority (hereinafter referred to as the D.D.A.) on 7.1.71. He was given the pay scale of Rs.260-430/- from 13.2.84 as admissible to a trained Matric teacher vide Annexure-4. In this application, he has prayed for a pay scale of Rs.330-560/- and to allow him the benefits as per the notification dated 12.8.87.

2. The respondents have maintained in their counter affidavit that the Third Pay Commission (for short, the Commission) did not recommend any specific pay scale for the teachers of the Dandakaranya Project. The Commission recommended in para-12 of Chapter XX that Government may find out a suitable pay scale for such teachers. In view of this recommendation of the Commission, the Government prescribed the pay scale of Rs.260-430/- for the trained matric teachers and it was this pay scale which has been given to the applicant and as such the applicant has no case for a higher pay scale.

3. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Ganeswar Rath, learned Senior Standing Counsel for the Central Government. Mr. Misra

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has drawn our attention to our judgment in O.A.No.34 of 1986 which was delivered on 29.1.88 and pleaded that the benefits given to the applicants in that case in the matter of pay scale should be extended to the applicant of the present case as the facts in both the cases are similar and the issue involved is the same and he has further urged that if, for any reason, it would not be possible for the Tribunal to give the applicant the pay scale of Rs.330-560/-, the applicant should be given the scale of pay of Rs.290-560/- which has been given to the trained matric teachers in O.A.No.34/88. Mr. Ganeswar Rath has contended that the claim of the applicant is barred by limitation in view of Article 7 of the Limitation Act as held by the Hon'ble Supreme Court in their judgment reported in AIR 1962 SC 8 and further that the recommendations of the Professor Chattopadhyay Commission are not applicable to the teachers working under the D.D.A. as those recommendations relate to the teachers in the Union Territories except Chandigarh. We agree with Mr. Rath that the notification dated 12th August, 1987 ^{deals} ~~deals~~ with the recommendations of the Chattopadhyay Commission and that those recommendations do not apply to the teachers working under the D.D.A. Mr. Misra also did not press this claim of the applicant and as such the applicant's prayer for the benefits as per the notification dated 12th August, 1987 stands rejected.

4. The question of limitation was also raised by the learned Senior Standing Counsel(Central) in Original Application No.34/86, the judgment of which has been placed before us. In that judgment we have observed as follows :

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" Learned Senior Standing Counsel(Central) also urged before us that the case is barred by limitation under Article 7 of the Limitation Act and Section 21 of the Administrative Tribunals Act, 1985 and in order to substantiate his contention, learned Senior Standing Counsel(Central) has relied upon the judgment of the Supreme Court reported in 1962 SC 8 (Madhab Laxman Vaikuntha v. State of Mysore). We do not feel inclined to deal with this point in detail because we have already dealt with this matter in detail in our judgment passed in O.A.Nos.32,33 and 101 of 1986 holding that the principles laid down by Their Lordships in the judgment reported in AIR 1962 SC 8 have no application to the facts of the present case because the amount due to the petitioners on their claim has not yet been settled and therefore the restrictions imposed under Article 7 of the Limitation Act would have no application to this case. It is attractive only when the dues have been settled. In that context, we have agreed with the view of the Hon'ble Judges of the Gauhati High Court and in their judgment, observations of Their Lordships of the Supreme Court referred to above have been taken into consideration. Judgment of Gauhati High Court is reported in AIR 1974 Gauhati 101 (State of Assam v. Gopal Krishna Mehera)."

No special feature of the present case has been pointed out to us which would warrant a departure from the views we have expressed in the judgment referred to above and as such, the contention of Mr. Rath in regard to the limitation is rejected.

5. There were four applicants in O.A.No.34 of 1986. They were trained matric teachers serving under the D.D.A.. They all claimed a pay scale of Rs.330-560/-. In that case we rejected the plea for a pay scale of Rs.330-560/- but held that the applicants were entitled to a pay scale of Rs.290-560/-. and they were allowed the pay scale of Rs.290-560 on the ground that their work was comparable to the work done by the trained matric teachers under the Ministries of Railways and Defence who have been given the pay scale of Rs.290-560/- and on the further ground that the Government of India in the Ministry of Home Affairs had

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sanctioned the pay scale of Rs.260-400/- to the untrained matric teachers. Admittedly the applicant was a trained teacher having acquired B.Ed. Degree from the Berhampur University in January, 1984. In view of this degree, the respondents, as has been mentioned in their counter, allowed the applicant the scale of pay of Rs.260-430/- with effect from 13.2.84 vide Annexure-4. Annexure-4 reads as follows :-

"

Office Order No.50/84

Dated 18.4. 1984.

Shri Niranjana Choudhury, Asstt. Teacher on acquiring B.Ed. degree from Berhampur University, is hereby allowed the pay scale of Rs.260-8-300-EB-340-10-380-EB-10-430/- with effect from 13.2.84 as admissible to Trained Matriculate Teacher."

We have held in O.A.No.34 of 1986 that a trained matric teacher should get a higher pay scale than an untrained matric teacher. On these two grounds, therefore, the applicants in O.A.No.34 of 1986 who were all trained matric teachers were given a pay scale of Rs.290-560/-. There is no reason why in the present case the applicant should not get the same pay scale of Rs.290-560/-. Mr. Misra has also prayed for this scale of pay with effect from 13.2.84. As the facts were similar in both the cases and the prayer of the applicants also in both the cases is similar, we hold that the applicant is entitled to the pay scale of Rs.290-560/- with effect from 13.2.84. The arrears should be calculated and paid to the applicant within six months from the date of receipt of a copy of this judgment.

6. The application is accordingly disposed of, leaving the parties to bear their own costs.

[Signature]
.....31-8-89
VICE- CHAIRMAN.

N. SEN GUPTA, MEMBER (JUDICIAL)

I agree.



[Signature]
.....31-8-89
MEMBER (JUDICIAL).

Central Administrative Tribunal,

Cuttack Bench, Cuttack,

The 31st August, 1989/ Jena, Sr.P.A.