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(11) (9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

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ORIGINAL APPLICATION No.114 OF 1987

Date of decision .. March 25, 1988.

Smt. Paramjeet Kaur Kalia, wife of Shri Mukesh Kalia,  
Formerly Principal, Higher Secondary School, Dandakaranya  
Development Authority, Boregaon, P.O. Pharasgaon Camp,  
Dist- Bastar ( Madhya Pradesh), C/o- Punjab Tailoring House,  
Malviya Road, Raipur ( M.P.) ... Applicant.

Versus

1. Union of India, through the Secretary,  
Ministry of Home Affairs, Department of Home Affairs,  
Rehabilitation Wing, Jaisalmer House, Mansing Road,  
New Delhi.
2. Chief Administrator, Dandakaranya Development Authority,  
At, P.O. and Dist- Koraput.

.... Respondents.

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M/s B.Pal, D.B.Das, O.N.Ghose,  
and S.C.Parija, Advocates ... For Applicant.

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

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C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

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

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1. whether reporters of local papers have been  
permitted 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 .
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J U D G M E N T

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a declaration that she is entitled to a pay scale of Rs.1050-1600 for the period she worked as a Principal of the Higher Secondary School under Dandakaranya Development Authority.

2. Shortly stated, the case of the applicant is that she was appointed as a Lecturer in Civics in the Higher Secondary School under the Chief Administrator, Dandakaranya Development Authority, Koraput on 25th August 1973. In course of time, on 1.9.1981, vide Annexure-A/1, the applicant was promoted to the post of Principal, Higher Secondary School in the scale of pay of Rs.550-900. The applicant was allowed to continue as such till she was relieved from the post on 26.2.1987 being deployed to the surplus cell. The applicant is now working as Inspector, Central Excise Division, Raipur (M.P.). Hence it is prayed that according to the 3rd Pay Commission Report which has been accepted by the Central Government, she is entitled to a pay scale of Rs.1050-1600 and accordingly the respondents should be commanded to sanction the amount due to her on the basis of the aforesaid pay scale.

3. In their counter, the respondents maintained that the application is not maintainable and this Bench has no territorial jurisdiction to adjudicate the issue in question and further more it is maintained that the applicant is not entitled to a pay scale of Rs.1050-1600 because she does not possess the adequate qualification for becoming a Principal of Plus 2 School and hence she is not entitled

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to the pay scale as claimed by her. It is further maintained that the application is barred under section 21 of the Administrative Tribunals Act, 1985.

4. We have heard Mr. B. Pal, learned counsel for the applicant and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. Mr. Pal, learned counsel for the applicant relied upon a judgment of this Bench passed in O.A.No. 106 of 1986 ( Sukharanjan Roy vrs. Union of India and another ) disposed of on March 23, 1988 wherein we have held that Principal of a Higher Secondary School is entitled to a pay scale of Rs.1050-1600 and accordingly the said application was allowed. Mr. Pal contended that in view of the judgment of this Bench passed in the case of Sukharanjan Roy, the present case is covered by the said judgment and therefore this Bench should also give a declaration in favour of the present applicant that she is entitled to a pay scale of Rs.1050-1600. This submission of Mr. Pal was opposed with some vehemence by Mr. A.B. Misra, learned Sr. Standing Counsel. We shall deal with the contentions of Mr. Misra in its serial order. Mr. Misra contended that the applicant has never served in Orissa and therefore this Bench has no jurisdiction to entertain this application because the applicant has been all along serving in Madhya Pradesh and therefore the application is liable to be dismissed. We are unable to agree with Mr. Misra because admittedly the headquarters office of the Dandakaranya Development Authority is situated in Koraput within the State of Orissa and the admitted case is that the controlling authority of the applicant is the Chief Administrator, Dandakaranya Development

Authority whose office is functioning at Koraput though the applicant was serving at Boregaon within Madhya Pradesh.

In this connection, reference may be made to a judgment of the Hon'ble Supreme Court reported in A.I.R. 1963 S.C. 1681

(Union of India and another vrs. Sri Ladu Lal Jain). In this case decided by Their Lordships, the matter arose out of a judgment passed by the Subordinate Judge of Gauhati holding that the Gauhati Court could legitimately exercise territorial jurisdiction over the matter in dispute. Ladulal Jain filed a suit against the Union of India and the Northern Frontier Railway, represented by the General Manager, having its headquarters at Pandu and the said headquarters at Pandu was admittedly within the jurisdiction of the Court at Gauhati and the suit was for recovery of a sum of Rs.8250/- on account of non-delivery of the goods which had been consigned to the plaintiff's firm run under the name and style of M/s Ladu Lal Jain booked from Kalyanganj station for carrying to Kanki station. It was alleged in the plaint that the cause of action arose at Pandu within the court at Gauhati, the place where notice under Section 80, Code of Civil Procedure was duly served upon the Railway and that the suit was filed in the court within the territorial jurisdiction of which the Railway had place of business by virtue of its headquarters being at Pandu. Though the learned Subordinate Judge had accepted the contention of the plaintiffs and held that the court at Gauhati had territorial jurisdiction yet the Hon'ble Single Judge of the Assam High Court reversed the decision of the learned Subordinate Judge and in these circumstances, the matter came up before Their

Lordships of the Supreme Court. Their Lordships while considering the provisions contained under section 20 of the Code of Civil Procedure were pleased to hold that the business run by the Railway and the headquarters office is the determining factor to decide the territorial jurisdiction of a particular court. At paragraph 16 of the judgment, Their Lordships were pleased to observe as follows :-

" In view of what we have said above, we hold that the Union of India carries on the business of running railways and, can be sued in the Court of the Subordinate Judge of Gauhati within whose territorial jurisdiction the head-quarters of one of the railways run by the Union is situated ."

As a matter of fact, Their Lordships found that the principal office was functioning at Pandu and therefore the court at Gauhati could legitimately exercise its territorial jurisdiction vested in it under the law. Applying the principles laid down by Their Lordships in the above mentioned judgment relating to the situation of the head-quarters office which is the determining factor conferring territorial jurisdiction, to the facts of the present case it will be found that admittedly the headquarters office of Dandakaranya Development Authority is situated at Koraput within the State of Orissa. At the risk of repetition, we may say that though the applicant was serving at Boregaon yet the controlling authority of the applicant was the Chief Administrator, Dandakaranya Development Authority whose office is functioning at Koraput and in addition to the above

the letter promoting/ appointing the applicant ~~could be~~<sup>has</sup> posted as Principal of Higher Secondary School, vide Annexure-A/1 was issued from Koraput within the State of Orissa. Hence, we are of opinion that the principles laid down by Their Lordships of the Supreme Court in the case of Ladulal Jain ( supra) apply in full force to the present case and in such circumstances, we find no merit in the contention advanced by the learned Sr. Standing Counsel.

5. The next submission of the learned Senior Standing Counsel is that the application is not maintainable because the applicant has since been relieved from the post of Principal, Higher Secondary School with effect from 26.2.1987 and this application being filed on 24.4.1987, the application should be held to be not maintainable. We do not find any rhyme or reason in this argument advanced by the learned Sr. Standing Counsel because the applicant has a right to ventilate her grievance in respect of a matter arising during her service in a particular station and so far as the present case is concerned under the Dandakaranya Development Authority- ofcourse subject to limitation. Due to the aforesaid reasons, we also do not find any force in the aforesaid contention of the learned Sr. Standing Counsel.

6. The next contention of the learned Sr. Standing Counsel is that the new employer of the applicant has not been made a party in this case because it is the new employer who will determine the further pay admissible to the applicant when she is serving under the new employer. This contention of Mr. Misra also does not carry any weight because

in our opinion the new employer is not a necessary party in this case and therefore, it is not fatal to the merits of this case. The new employer can determine the pay admissible to the applicant at present keeping in view of the findings arrived at by us and the result of this application. In such circumstances we do not find any merit in the contention of Mr Misra.

7. It was next contended by Mr Misra that prior to 1.1.1973 pay scale of Principals, Higher Secondary School under the Ministry of Railway and Defence was completely different from the pay scale allowed to the Principal of a Higher Secondary School under the Dandakaranya Development Authority and therefore the pay scale prescribed by the 3rd Pay Commission for Principal's serving under the Ministry of Railway and Defence would not be applicable to the present applicant. We are sorry to mention that there has been unnecessary repetition of this nature of submission by the learned Sr Standing Counsel in several cases even though we have rejected such submissions in many cases giving reasons. However, since the learned Sr. Standing Counsel has chosen to repeat his submissions we would succinctly dispose of this contention by saying that we had agreed with the view taken by the Hon'ble High Court of Orissa in several cases so far as Headmasters and Teachers of different categories under the Dandakaranya Development Authority are concerned who had prayed for higher scale of pay and kept in par with the teachers serving under the Ministry of Railway and Defence. Their Lordships of the Hon'ble High Court in several cases held that the respondents-Opp.parties, namely, the Central Government including the Chief Administrator, Dandakaranya Development Authority not having shown the different nature



of duties discharged by teachers of the Dandakaranya Development Authority vis-a-vis the teachers serving under the Ministry of Railway and Defence, it should be deemed that both category of teachers discharge the same nature of work and therefore the teachers serving under the Dandakaranya Development Authority would be entitled to the same pay scale as recommended by the 3rd Pay Commission so far as the teachers serving under the Ministry of Railway and Defence are concerned. We had agreed with this view in several cases in which we have passed judgment over-ruling this nature of objection put forward by the learned Sr. Standing Counsel and allowed the claim of those teachers. In the present case, we do not find any justifiable reason to make a departure from the view already taken by the Hon'ble High Court of Orissa with which we have agreed in several cases. Hence under such circumstances, we find no merit in the aforesaid contention of the learned Sr. Standing Counsel.

8. It was next urged by the learned Sr. Standing Counsel that on a perusal of Annexure- R/1 it would be found that qualifications in respect of teachers serving under the Ministry of Railway and Defence with that of the institutions such as colleges are quite different. We have given our anxious consideration to this part of the argument of learned Sr. Standing Counsel and we have carefully perused the contents of Annexure- <sup>W</sup>R/1. We do not find any evidence to substantiate the aforesaid contention of the learned Sr. Standing Counsel to the extent that there is any qualification and on the contrary the only qualification prescribed in Annexure- R/1 is Master degree. That apart once the petitioner



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has been admittedly promoted to the post of a Principal, authority did so keeping in view the relevant rules for promotion and once having given promotion to the post in question, the prescribed pay scale after 1.1.1973 would govern the petitioner.

9. As a last straw on the camel's back, learned Sr. Standing Counsel urged that the matter is barred by limitation under section 21 of the Administrative Tribunals Act, 1985 as the claim<sup>is</sup> with effect from 1.9.1981. We also do not find any merit in the aforesaid contention because in our opinion this is a continuous cause of action and therefore section 21 of the said Act would have no application to the facts of the present case .

10. We may repeat and say that in the case of Sukharanjan Roy ( supra ) we have given detailed reasons for making Sukharanjan Roy entitled to a pay scale of Rs.1050-1600. We do not find any justifiable reason to make a departure from the view taken by us in the said case and therefore applying the principles laid down in the said case to the facts of the present case, we feel that legitimately the petitioner is entitled to a pay scale of Rs.1050-1600/- and therefore we direct that the arrear emoluments of the petitioner on the basis of the aforesaid pay scale be calculated and she may be paid her arrear emoluments within four months from the date of receipt of a copy of this judgment.

11. Thus, the application stands allowed

leaving the parties to bear their own costs .

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25/3/88  
Member ( Judicial)

B.R. PATEL, VICE CHAIRMAN,

9 agree.



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25.3.88  
Vice Chairman.

Central Administrative Tribunal,  
Cuttack Bench.  
March 25 , 1988/Roy, SPA.