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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.10 OF 1989.

Decided on 13th July, 1989.

1. Vadakeliathu Othuppan Thomas,
Son of Late Mathulla Othuppan
At present working as Junior Engineer,
(Selection Grade), Construction Division,
Dandakaranya Project, P.O.Malkangiri
District-Koraput, Orissa -764048.
2. Mammotttil Mani Eleas,
Son of Mani Eleas,
At present working as Junior Engineer,
(Selection Grade), Construction Division,
Dandakaranya Project, P.O.Malkangiri,
District-Koraput, Pin-764 048.

... Applicants

Versus

1. Union of India, represented by its
Secretary, Department of Internal
Security, Rehabilitation Division,
Jaisalmer House, Mansingh Road,
New Delhi- 110 011.
2. Chief Administrator,
Dandakaranya Project,
At/P.O./Dist-Koraput (Orissa)
Pin - 764 020.

.... Respondents

For Applicants - M/s. A.K.Mohapatra-I and
P.I.Mohapatra

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

C O R A M:

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

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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 ? *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 : In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants - two in number - who are working as Selection Grade Junior Engineers (Civil) under the Dandakaranya Development Authority (D.D.A.) have asked for a pay scale of Rs.550-900/- from 1.8.1976 the date on which the applicants got promotion to the Selection Grade of Junior Engineers (Civil). The applicants were appointed to the Selection Grade on the recommendation of the Departmental Promotion Committee (D.P.C.) with effect from 1.8.1976 in the pay scale of Rs.500-750/- vide Annexure-1. They have further prayed for grant of a pay scale of Rs.1640-2900/- from 1.1.1986 on the basis of the recommendations of the Fourth Central Pay Commission.

2. The respondents have maintained in their counter affidavit that there was neither a Selection Grade post under the D.D.A. prior to 1.1.1973 nor was there any Selection Grade scale of Rs.550-900/- recommended by the Third Central Pay Commission for the Junior Engineers (Civil) of the Dandakaranya Project. They were granted Selection Grade scale of Rs.550-750/- in the light of the provisions contained in the Ministry of Personnel's Office Memorandum dated 10.1.1977 (Annexure-R/1) relating to Selection Grade

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posts in the Group- C & D categories. They therefore maintained that the prayer of the applicants is misconceived and liable to be rejected.

3. I have heard Mr. A.K.Mohapatra, learned counsel for the applicants and Mr. A.B.Misra, learned Senior Standing Counsel for the Central Government. Mr. Mohapatra has contended that two of the colleagues of the applicants, namely, K.M. Mathai and V.P.Samuel moved the Central Administrative Tribunal, Cuttack Bench in O.A.No.103 of 1987 and O.A.No.105 of 1987 praying for grant of pay scale of Rs.550-900/- which the applicants are asking in the present case. This Bench in its judgment dated 30.3.1988 have allowed the pay scale of Rs.550-900/- to the applicants in the aforesaid two cases and as the applicants are similarly circumstanced as Sri Samuel and Sri Mathai in O.A.Nos.103 and 105 of 1987 being the members of the cadre of Selection Grade Junior Engineers, they should be allowed the same scale of pay. Mr. A.B.Misra, on the other hand, has submitted that the application was barred by limitation under section 21 of the Administrative Tribunals Act, 1985 as the cause of action arose on 1.8.1976 when the applicants were appointed to the Selection Grade posts of Junior Engineers. Mr. Mohapatra countered this argument by saying that the applicants had been representing from time to time vide Annexures- 4 and 5. Annexure-4 is a copy of the representation made by Sri V.O. Thomas, one of the applicants dated 2.1.1987. Annexure-5 is a copy of the representation dated 24.6.1988

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made by Sri Thomas after the judgment was delivered in O.A.Nos.103 and 105 of 1987. Moreover, Mr. Mohapatra has further contended that the period of limitation should count from 30.3.1988 when the judgment was delivered in O.A.Nos.103 and 105 of 1987. I accept the contention of Mr. Mohapatra in view of the representations vide Annexures- 4 and 5 and for the reason that the relief has been given to two of the colleagues of the applicants in O.A.Nos.103 and 105 of 1987. Mr. A.B.Misra has further contended that the work of the Junior Engineers under the D.D.A. cannot be treated on par with the Junior Engineers of Central Public Works Department and the Telecommunication Department as their work is different. According to Mr. Misra, the Juniors of C.P.W.D. and Telecommunication Department are two All India cadres whereas the Junior Engineers of D.D.A. belong to a Divisional cadre in that they were only in the D.D.A. area. His further point is that the Junior Engineers of C.P.W.D. were getting pay scale of Rs.335-485/- on Selection Grade whereas there was no Selection Grade prior to 1.1.1973 for the Junior Engineers of the D.D.A.. We have held in our judgment dated 30.3.1988 in O.A.Nos.103 and 105 of 1987 that the nature of duties performed by the Junior Engineers in the Selection Grade posts under D.D.A. and those of Telecommunication Department and C.P.W.D. is the same. In view of our aforesaid judgment, there is no scope left for me to take a different view. Mr. Mohapatra has maintained that the relief given to one set of employees



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should also be given to other employees if they are all similarly circumstanced. In this connection, he cited a judgment of the New Delhi Bench of the Central Administrative Tribunal reported in 1989(1) ATJ -71 (A.K.Khanna and Ors v. Union of India and Ors). In the case before the New Delhi Bench, the applicants were recruited as Senior Computers. They were similarly placed as the applicants in Civil Writ No.698 of 1977 on the file of the Delhi High Court which was transferred to the Central Administrative Tribunal, New Delhi Bench and registered as T.A.No.335 of 1985. The New Delhi Bench vide its judgment dated 11th April, 1986 in the said case while quashing the impugned order therein, allowed the revised petition and declared that the petitioners were entitled to the post of Senior Computers in the revised pay scales of Rs.425-700/-. The New Delhi Bench further declared that the petitioners would be entitled to the higher pay scale and all attendant benefits including all arrears with effect from the date the revised pay scale of Rs.425-700/- became effective and directed the respondents to calculate the amounts due to the petitioners and pay the same within three months from the date of judgment. The applicants in O.A.No.1942 of 1987 before the New Delhi Bench were not parties to the case in T.A.No.335/85 which was allowed. In spite of it, the Delhi Bench held as follows :



" It is true that the applicants were not parties to the Civil Writ Petition which was allowed by the Tribunal. But there is no valid reason not to extend the benefit of that judgment to the applicant when they are similarly placed as the petitioners in T-335/85. In fact instead of driving each of the Senior Computers to seek redressal of grievance before the Tribunal, The respondent should have extended the benefit of that judgment to the entire class of Senior Computers similarly placed. The respondents would be well advised to direct the department to extend the benefit of the judgment of courts and Tribunal which have become final to all employees eimilarly placed and not drive each of them to seek redressal of their grievance before the Tribunal."

4. Mr. Mohapatra drew my attention also to a judgment of the Full Bench of the Central Administrative Tribunal presided over by the Chairman in the case of Vijayakumar Srivastva and others v. Union of India and others reported in A.T.R.1987(1)C.A.T. 233. At page 240 the Full Bench have observed as follows :

" Although there is no provision in the Act or the Rules which directs that the view expressed earlier shall be binding on all the Benches of the Tribunal, ordinarily it is binding. Judicial discipline requires that if a Bench of coordinate authority has expressed a view, another Bench of the Tribunal should not pronounce a judgment taking a different view and if it is unable to agree with the view expressed earlier, to avoid conflict of judgments, the case should be referred to a larger Bench. "

Mr. Mohapatra said that in the present case it is not a judgment of a coordinate authority but a judgment of this very Bench on similar facts and question of law which is the judgment in O.A.Nos.103 and 105 of 1987 which should have the binding effect so far as this case is concerned. I agree with Mr.Mohapatra and hold

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that the judgment of this Bench in O.A.Nos.103 and 105 of 1987 is squarely applicable to the present case and having come to this conclusion, I direct that the applicants should be given the pay scale of Rs.550-900/- with effect from the date on which they actually joined the Selection Grade post on promotion. The scale of pay recommended by the Fourth Central Pay Commission for the Junior Engineers of Selection Grade in the C.P.W.D. and the Telecommunication Department should be given to the applicants with effect from 1.1.1986.

5. In the result, the application is allowed. In the circumstances of the case, parties to bear their own costs.



[Signature]
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VICE - CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
The 13th July, 1989/ Jena/ SPA.