

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.74 of 1989.

Date of decision: October 24 , 1990.

Bibhuti Bhusan Nayak and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... M/s.P.V.Ramdas,  
B.K.Panda, Advocates.

For the respondents ... M/s.C.V.Murty,  
2 & 3 C.M.K.Murty,  
S.Kr.Rath, Advocates.

C O R A M:

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

A N D

THE HONOURABLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

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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 case the applicants who are Computers in the Central Rice Research Institute ( C.R.R.I. ) have claimed parity in the matter of pay with Senior Computers of the Indian Agriculture Statistical Research Institute ( I.A.S.R.I.). Both the C.R.R.I. and I.A.S.R.I. are the wings or units of the Indian Council of Agricultural Research (I.C.A.R.). The ground urged in the application is that at one time the computers and the Senior Computers were placed in the same scale of pay namely Rs.330-560/- but the Senior Computers were later given the scale of

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pay of Rs.425-600/- without revising the pay of the applicants even though <sup>in</sup> the Annexure-2 which is a copy of the letter dated 2.9.1974 issued by the Secretary, I.C.A.R. allows this scale to both Senior Computers and Computers of I.C.A.R. Institutes/Centres.

2. The respondents have maintained in their counter affidavit that the claim of the applicants is barred by limitation under section 21 of the Administrative Tribunals Act, 1985 ( hereinafter to be referred to as the Act). According to them, the cause of action arose in 1974 when Annexure-2 was issued but the applicants did not move any Court for appropriate relief. They have come up before this Tribunal only after the Andhra Pradesh High Court allowed this scale of pay of Rs.425-600/- to the petitioners who had moved the High Court under Articles 226 & 227 of the Constitution of India. They have further contended that the Technical Officers Rules came into force with effect from 1.10.1975 and two of the applicants were inducted to T-2 Grade category in the pay scale of Rs.330-560/- with effect from 1.10.1975. Applicant No.1 was subsequently promoted to T-1-3 in the scale of Rs.425-700/- with effect from 1.7.1976 and the applicant No.2 was promoted to this Grade with effect from 1.7.1977. Applicant No.3 was inducted to T-1-3 grade with effect from 1.7.1980. The cause of action arose in 1975 when all of them were inducted to the Technical service in the scale of pay of Rs.330-560/-. They have further contended that the judgment of the Andhra Pradesh High Court " is not a judgment in rem but a judgment in



personem" and as such the applicants cannot derive any benefit from the said judgment and this Tribunal, according to them, cannot be considered to be a forum for implementation of the said judgment.

3. We have heard Mr.P.V.Ramdas, learned counsel for the applicants and Mr.C.V.Murty, learned counsel for the Respondents 2 & 3 and perused the documents. Mr.Ramdas has filed a rejoinder and has also argued that the question of limitation in this case does not arise inasmuch as the applicants are entitled to the benefits allowed by the Andhra Pradesh High Court. The High Court delivered their judgment in Writ appeal No.1474 of 1986 on 19.12.1986. According to Mr.Ramdas the ratio of the decision of the Andhra Pradesh High Court applies to all who were similarly situated. According to Mr.Ramdas, Grade T-2 of category applies only to Matriculates and cannot be made applicable to the applicants who are Graduates, by virtue of Appendix IV of the Technical Service Rules. In the matter of relief he has cited the judgment of the Principal Bench of the Tribunal in the case of A.K.Khanna and others v. Union of India and others reported in 1988 (2) ATR 518, where it is mentioned if same relief has been given to some employees it should be given to others similarly placed. He has also cited the judgment of the Supreme Court reported in AIR 1987 SC 1353 (Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others). Mr.Murty vehemently contended <sup>that</sup> the case is clearly barred by limitation under section 21 of the Act. In this connection, he placed before us a judgment of the Ernakulam Bench of the Tribunal in the case of

*B. Anand*

Varghese Jacob and others v. Union of India and others in OAK 340 of 1983, where the Administrative Member who decided the case has observed as follows :

" The judgement of the Andhra Pradesh High Court does not give them any right to make this claim because they have ceased to be Computers long back. There cannot be a retrospective revival of a grievance which was not felt when the alleged discrimination was in force. That judgment could have helped them if on the date they filed this application they were computers and suffered such grievance."

He has further averred that the petition before the Andhra Pradesh High Court was filed on 31.1.1979 when the petitioners in that case were Computers in the scale of pay of Rs.330-560/- but two of the applicants in this case had been inducted in T-1-3 carrying scale of pay of Rs.425-700/- and the applicant No.3 got the scale on 1.7.1980 and as such was getting Rs.330-560/- on 31.1.1979. He has drawn our attention to paragraphs 2 & 3 of his counter to prove his case that the case is barred by limitation. In this regard he has also cited the judgment of the Hon'ble Supreme Court reported in AIR 1989 SC 674 (M/s. Rup Diamonds and others v. Union of India and others). Mr.Ramdas has cited the judgment of the Supreme Court reported in AIR 1983 SC 686 to prove his point that benefit should be given to all similarly placed. We refrain from giving our decision on the question of limitation and applicability of the judgment of the Andhra Pradesh High Court to the applicants in view of the letter No.4-47/79-EEV dated 9.2.1988 of the Under Secretary to the Government of India which says that it is further



requested that a list of such persons involved in implementation of this Court judgment ( judgment of the A.P.High Court) may be prepared and sent to this Council for further action and his letter No.F-6-47/79-EEV dated 19.2.1988 which is again on implementation of the Andhra Pradesh High Court judgment . We would like to quote the relevant portion of this letter.

" In order to examine the implications of this judgment in the case of all the computer working in ICAR system who were appointed in the scale of pay Rs.330-560/- prior to the date of filing the writ petition i.e. 31.1.1979 you are requested to intimate to this council on priority basis the total No. of computers with date of their appointment and approximate amount involved as arrears from 1.2.79 and recurring difference that would be payable immediately in respect of your Institute/ Subcentre/R.C.etc. "

These two letters make it abundantly clear that the issue of parity of pay scale between the computers and Senior Computers is receiving the attention of the competent authorities and we do not like to say anything which would in any way interfere with the proposed departmental determination of the issue involved. We hope it should be possible for the competent authority to finalise the matter within a period of four months from the date of receipt of a copy of this judgment. If the applicants are not satisfied with the decision taken by the Department they are at liberty to move the Tribunal, if so advised.

4. This application is accordingly disposed of. No costs.

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Member (Judicial)

Central Admn. Tribunal,  
Cuttack Bench, Cuttack.  
October 24, 1990/Sarangi.



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Vice-Chairman