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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH:
CUTTACK.
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Original Application No.270 of 1990.

Date of decision :- 2nd.December,1991.

N.K.Das & Others ... Applicants.

Versus,

Union of India & Ors. ... Respondents.

For the Applicants-

M/s.R.Behera,
S.A.Nayeem, S.B.Jena,
A.K.Mishra, Advocates.

For the Respondents:

Mr.Ashok Kumar Mohanty,
Sr.Standing Counsel,
(Central) .

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C O R A M.

HON'BLE MR.N.SENGUPTA:MEMBER (JUDICIAL) .

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1. Whether the reporters of newspapers 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~~ see the fair copy of the Judgment ? *yes.*

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J U D G M E N T.N. SENGUPTA, MEMBER (J).

Fifteen applicants were appointed on different dates as Teachers under the Dandakaranya Development Authority between the 2nd. November, 1984 to 29th. May, 1985. Besides the applicants others were also appointed as teachers and ~~the scale of pay for~~ these teachers i.e. Asst. Teachers, Matric Trained, were given the scale of pay of Rs. 260/- to Rs. 430/-. The 3rd. Central Pay Commission recommended the pay scale of Rs. 290/- to Rs. 560/- for Primary School Teachers and as the ^{and - likes} applicants [^] their [^] were being paid in the lower scale of pay, some of the teachers filed an Original application in this Tribunal which was numbered as O.A. 34 of 1986. That Original Application was disposed of on 29.1.1988. This Tribunal in O.A. 34/86 directed that the pay of trained Matric teachers working in the Dandakaranya Development Project was to be fixed in the scale of Rs. 290/- to Rs. 560/- from 1.1.1973 or from the dates of the ⁱⁿ respective appointments which ever is ~~later~~ [^] and from 1.1.1986, in the scale of pay of Rs. 1200/- to Rs. 2040/-. The applicants have averred that after the judgment of this Tribunal in O.A. 34/86, the Government of India issued an office order in August, 1989 stating that the pay of the seventeen teachers who had filed O.A. 34/86 was fixed in the scale of Rs. 390/- to Rs. 560/- with effect from their respective dates of appointment till 31.12.1985 and from 1.1.1986 in the scale of Rs. 1200/- to Rs. 2040/-

Member
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of course the pay fixation in the latter scale was to be made with effect from the ~~date of their~~ ^{the} dates of their respective annual increments falling due after 1.1.1986.

It was further stated in the office order that the pay fixation was only notionally ^{the} till upto 30.3.1989 and thereafter the actual monetary benefits will accrue.

The grievance of the applicants is that they are

entitled to get basic pay in the scale of Rs.290/- to

Rs.560/- from the date, of their respective joining till

upto 31.12.1985 and in the revised scale of pay ^{of Rs.1200/-} Rs.2040/-

from 1.1.1986, ^{as} the office/ order does not meet their

requirements they have prayed for a direction on the

respondents to give them arrears of basic pay in the

scale of Rs.290/- to Rs.560/- from the date, of their

respective joining till 31.12.85 and ~~xxxx~~ arrear dues

in the scale of Rs.1200/- to Rs.2040/- till they conti-

nued under the Dandakaranya Development Authority.

It may here to be mentioned that the Dandakaranya

Development Project was ^{wound} ~~owned~~ up and the services

of the Teachers working in the schools established

by that authority were transferred to the control of

the Governments of the States of Orissa and Madhya Pradesh

on the transfer of the schools to the Administration

of those two States.

2. The Respondents in their reply have maintained that the application is barred by limitation in as much as the applicants have not come within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985.

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They have further pleaded that the applicants cannot be entitled to any amount as their arrears of pay beyond the prescribed period. They have annexed an order of the President dtd.30.3.39 with regard to the sanction of amount to be paid to the teachers on the re-fixation of their pay. In substance, the plea of the respondent is there is no justifiable ground to deviate from the sanction order with regard to payment of the arrears and that the claim for arrears is barred by limitation and also under Rule 42(a) of the General Financial Rules read with Delegation of Financials Rules, 1978.

3. Mr.A.K.Mishra appeared at the hearing for the applicants and Mr.A.K.Mohanty learned standing counsel for the Respondents. Some arguments have been advanced with ^{regard} ~~respondent~~ to the question of limitation and also as to whether Presidential order granting actual monetary benefit from 30.3.39 is sustainable, but for what is going to ^{be} state below it is not necessary to discuss all those contention in detail.

4. The parties are agreed that in O.A.34/86 the applicants therein succeeded to the extent of getting an order for fixing their pay in the pre-revised pay scale Rs.290/- to Rs.560/- from 1.1.1973 or ^{from} their respective dates of appointment, whichever is later and none of the parties to that original application either preferred an application for leave to appeal

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or a petition for review by this Tribunal. Therefore, the decision in O.A.34/86 has become final. Not only that, as would be found from Annexure-2 to the application and Annexure-R/1 to the reply of the Respondents, the judgment in O.A.34/86 delivered on 29.1.1988 has been acted upon. When some persons by filing an application got some reliefs, all those who are similarly placed become entitled to those reliefs from the date of the Judgment in that application. It is no body's case that present applicants do not fall in the class of the applicants in O.A.34/86. Therefore, the present applicants are also entitled to the fixation of their pay from the date of their respective appointment in the scale of pay Rs.290/- to Rs.560/- for the period upto 31.12.1985. They are entitled to the pay in the revised scale of Rs.1200/- to Rs.2040/- from 1.1.1986 in accordance with the Revised Pay Rules, 1986. Had there been no judgment in O.A.34/86, the present applicants could not successfully claim for fixation of their pay in the scale of Rs.290/- to Rs.560/- because the fixation of pay, so far as the applicants are concerned, in the scale of Rs.260/- to Rs.430/- was done in November, 1984 to May, 1985 and they ought to have come within one year, if they were aggrieved by such fixation, from the date of commencement of Administrative Tribunals Act, 1985. Since in O.A.34/86 the direction as stated above was given, the applicants became entitled

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to the same rights and reliefs as the applicants in O.A.34/86.

5. Mr.A.K.Mishra, the learned counsel for the applicants has urged that there is no ostensible reason for denying the actual monetary benefit to the applicants for the period prior to 30.3.1989. This argument is a little fallacious because for the advantage, the judgment in O.A.34/86 is relied on and for the dis-advantage it is sought to be ignored which is not permissible under law. The President passed the order in Annexure-R/1 on 30.3.89 the material part of which reads:

" Sanction of the President to the revision of pay of scale of similarly placed trained Matric Teachers (Asst. Teachers) in Dandakaranya Project from Rs.260-430 to Rs.290-Rs.560/- (Pre-Revised) on notional basis w.e.f. 1.1.1973 or date of their actual appointment whichever is later, and the actual benefit from the date of issue of this sanction, subject to the condition that the incumbents are similarly placed at par with the petitioner in O.A.28 of 1987"

Of course O.A.28/87 was another case filed

by a teacher where the self-same relief as in O.A.34/86 was granted, but that makes little difference. The applicants, as may be gathered, made representations prior to 30.1.89 and another on 30.1.89 for fixation of their pay in the same lines as the applicants of

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O.A.34/86. The successive representations do not save limitation, therefore when the present application was filed in July, 1990, under the ordinary rule, this application would have been barred by time but as persons similarly situated have been granted a particular benefit, ^{-and-} as to deny the same to the present applicants would amount to an unjust discrimination, the applicants would be entitled to the same relief i.e. the actual monetary benefit with effect from 30.3.89.

6. In view of what has been stated above the respondents are directed to fix the pay of the applicants in the scale of Rs.290/- - Rs.560/- till 31.12.1985 and to fix the pay in the revised Scale w.e.f. 1.1.86 on the basis of the emoluments that the individual applicants would have drawn on refixation as directed above. The actual monetary benefit would be from 30.3.1989.

The amount payable to each of the applicants for the period from 30.3.89 till he continued under the Dandakaranya Project, be paid within 4 months by respondents 2 and 3.

There would be no order as to costs.


2-12-91.
Member (Judicial).

Central Administrative Tribunal,
Cuttack Bench, Cuttack. Hossain/