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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 461 of 1990.

Date of decision : September 16, 1991.

Krushna Chandra Jena and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... M/s. B.K. Sahoo,  
K.Ch. Sahoo, Advocates.

For respondents ... Mr. A.B. Misra,  
Senior Counsel (Central)  
Mr. Tahali Dalai,  
Addl. Standing Counsel (Central)

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C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, 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 His Lordship wishes to see the fair copy of the judgment ? Yes.

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J U D G M E N T

K.P.ACHARYA, V.C., In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants (18 in number) pray that the order of the Commandant fixing the pay scale as per Annexure-5 be quashed and the respondents be directed to fix the pay scale of the applicants in par with the pay fixed in Annexure-6 and the respondents be further directed to pay arrears after re-fixation of the pay scale with interest at 10 per cent per annum.

2. Shortly, stated, the case of the applicants is that they are working as Senior Scientific Assistants in the Proof and Experimental Establishment at Chandipur. Their pay was fixed at Rs.550-900/-. The applicants had a

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grievance namely they having discharged the same duties and having shouldered the same responsibilities like that for a Foreman, they are entitled to the same scale of pay i.e. Rs.840-1040/-. In connection with this matter an Arbitrator was appointed and the Arbitrator passed an award on 12.8.1985 recommending the pay scale at Rs.840-1040/- in regard to the applicants and the Arbitrator further held that the applicants were entitled to this pay scale with effect from 22.9.1982. Government though accepted the award of the Arbitrator regarding the enhanced pay scale of Rs.840-1040/-, yet <sup>it</sup> decided that this higher pay scale would be ~~operative~~ <sup>operative</sup> with effect from 1.1.1983. The concerned association filed an application under Section 19 of the Administrative Tribunals Act, 1985 before the Principal Bench of the Tribunal and the Principal Bench vide its judgment set aside the order of the Government and directed that the higher pay scale should be made effective from 22.9.1982. Against this judgment the Government has moved the Hon'ble Supreme Court for quashing the judgment of the Principal Bench which formed subject matter of S.L.P. (Civil) No.14911 of 1989 and it is pending determination. The present applicants have come up with this application praying for the aforesaid relief.

3. I have heard Mr. B.K. Sahoo, learned counsel for the applicants and Mr. A.B. Mishra, learned Senior ~~Standing~~ Counsel (Central) assisted by Mr. Tahali Dalai, learned Addl. Standing Counsel. The admitted facts are as follows:

- i) The Arbitrator passed an award recommending the pay scale of Rs.840-1040/- with effect from 22.9.1982 and this was also decreed in favour

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of the Senior Scientific Assistants by the Principal Bench which is pending determination by the Hon'ble Supreme Court.

- (ii) The Fourth Central Pay Commission has submitted the report revising the pay scales of certain Government employees which has since been made effective.

But the disputed position is that the revised pay scale after the 4th Central Pay Commission report does not cover ~~and~~ the applicants whereas the applicants claim that such report does cover the applicants' pay namely equivalent pay scale being demanded by the applicants. After giving my anxious consideration to the arguments advanced at the Bar I do not like to express any opinion regarding the legality/illegality, propriety/impropriety of the pay scale of Rs.840-1040/- with effect from 22.9.1982 or 1.1.1988 because this is pending determination by the Hon'ble Supreme Court and ultimately the judgment of the Hon'ble Supreme Court will govern the case of the applicants vis-a-vis the respondents. Incidentally, I may say that learned Senior Counsel, Mr. A. B. Misra submitted that the Parliament has already fixed the effective date from 1.1.1988. Be that as it may, I repeat that the judgment of the Hon'ble Supreme Court will govern the field superseding all administrative instructions and any opinion expressed by the Parliament.

In such circumstances, I repeat to say that I will not express any opinion regarding the effective date of the pay relating to the pay scale of Rs.840-1040/-.

I also do not express any opinion on the contention put  
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forward on behalf of the applicants regarding the non-fixation of the pay scale of the applicants as per the 4th Central Pay Commission because in all probabilities, I may have to travel upon the pay fixation in the pay scale of Rs.840-1040/- and naturally I have to adjudicate the effective date so that calculation is to be made in regard to the pay fixation of the applicants after the Fourth Central Pay Commission. This matter is kept open and liberty is given to the applicants to agitate the matter if they are so advised after the judgment<sup>is</sup> passed by the Hon'ble Supreme Court.

4. Mr.Sahoo drew my attention to Annexure-2 in which the Ministry of Defence, New Delhi vide their Office Memorandum No.9(2)/85/D(ECC/IC)/Vol.V dated 20th September, 1990 have stated that pending decision by the Hon'ble Supreme Court in SLP No.14911 of 1989, the award in respect of Senior Scientific Assistants in DGQA and DRDO will be implemented with effect from 1.1.1983<sup>with</sup> interest at the rate of 10 % per annu, from 1.11988. While placing the contents of Annexure-2 Mr.Sahoo urged that pending disposal of the aforesaid SLP by the Hon'ble Supreme Court the applicants could be paid their arrear dues as per the office memorandum stated above. On the other hand, learned Senior Counsel, Mr.A.B.Misra submitted that the Arbitrator has fixed the date from 1.1.1983 because of heavy financial implications involved in this matter. Be that as it may, the employee has a right to receive the payment of his dues from the Government. Therefore, I have no objection if Annexure-2 is given effect to as stated therein by the

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competent authority so far as the principal amount is concerned. As regards the interest, the Ministry has already said that the Senior Scientific Assistants should be entitled to 10 per cent of interest. This part is left to the discretion of the Government. Hence, it is directed that arrears dues of the applicants as per Annexure-2 be calculated and paid to the applicants within 90 (ninety) days from the date of receipt of a copy of this judgment.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.



*[Handwritten Signature]*  
16.9.91.  
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Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
September 16, 1991/Saranghi.