

Central Administrative Tribunal
Calcutta Bench

1. OA No.605/96
2. OA No.606/96

Calcutta this the 24th day of September, 2002.

Hon'ble Mr. S. Biswas, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

OA No.605/96

Shri Debendranath Mondal & Others -Applicants

-Versus-

Union of India & Others -Respondents

OA No.606/96

Shri Bijoy Kumar Roy & Others -Applicants

-Versus-

Union of India & Others -Respondents

For the applicants - Shri K.C. Saha, Advocate

For the respondents- Shri M.S. Banerjee, Advocate

O R D E R (ORAL)

Mr. Shanker Raju, Member (J):

As the questions of fact and law are identical in these two OAs, they are disposed of by this common order.

2. Applicants in OA-605/96 impugn respondents order dated 5.9.94 where the prayer of applicants for implementation of EDP scale w.e.f. 1.1.86 has been pended subject to final outcome of the litigation pending. Appliants have sought revised pay scale of Rs.1600-2660 for Data Processing Assistants w.e.f. 1.1.86 with all consequential benefits.

3. Applicants were appointed as DPAs and on re-designation as RDA were working on 1.1.86 holding the designation of Junior Investigators. 4th CPC replaced the pay scale of Rs.425-700 to Rs.1400-2300.

As per the 4th CPC recommendations reorganisation of existing posts with prescribed uniform pay scale and designation was recommended in accordance with the recommendations of Seshagiri Committee, which was appointed by the Government to consider the issue in the light of the observations of the 4th CPC. Representations from various departments have been invited. The report of the Committee was accepted by the Government and notified on 2.7.90 where Presidential sanction was accorded to the revision of designations and the scales of pay of Group 'B' and 'C' EDP was made from 11.9.89. Accordingly applicants pay scale was fixed as Rs.1600-2660 w.e.f. 11.9.89. Applicants through representations sought implementation of 4th CPC pay scale w.e.f. 1.1.86.

4. Nagpur as well as Calcutta Benches of the Tribunal in OA-625/90 as well as OA-282/93 respectively accorded the benefit to the similarly circumstance w.e.f. 1.1.86 which has been sought by the applicants from the respondents, which accordingly was pended as per the impugned order.

5. In OA-6-6/95 applicants appointed as DEO Grade 'B' were working as Computers Junior Scale on 1.1.86 and have prayed for similar reliefs and accordingly made representations after the Seshagiri Committee report and the decisions of the Nagpur and the Calcutta Benches. They have also sought the benefit of the revised pay scale of DEO grade 'B' w.e.f. 1.1.86 with all consequential benefits.

6. Learned counsel of the applicants contended that the applicants have been arbitrarily denied the benefit of the revised pay scale for DEO Grade I but also DEO 'B' as enumerated amongst categories of other employees in Group 'B' and 'C' of the EDP posts under the department of Statistics w.e.f. 1.1.86 when the recommendations of the 4th CPC were given effect to by the Government. It is stated that their cases are being covered by the decisions of the Nagpur and Calcutta Benches and further placing reliance on a decision of the coordinate Bench at Calcutta in OA-602/96 - Kalyan Kumar Mukherjee v. Union of India it is contended that therein the issue of option already exercised by the applicants therein as well as the issue of limitation has been meticulously gone into and adjudicated and thereafter treating the decisions of the Tribunal in rem accorded the benefit of the revised pay scale w.e.f. 1.1.86 with all consequential benefits. It is stated that in view of the decision of the Apex Court in K.C. Sharma v. Union of India, 1998 SCC (L&S) 226, applicants are legally entitled to be accorded the benefits, being similarly circumstance.

7. On the other hand, respondents vehemently denied the contentions and resorted to the plea of delay and laches in approaching this court and further stated that as the applicants have already exercised their option in pursuance of circular dated 9.9.81 after five years the present OAs are not legally tenable in view of Section 21 of the Administrative Tribunals Act, 1985. It is further stated that once they have enjoyed the benefit from 1989 it is not open for the

applicants to challenge the same. Moreover, it is stated that their cases are distinguishable from the decisions cited by the applicants in their support.

8. We have carefully considered the rival contentions of the parties and perused the material on record. We have also carefully perused the decision in Kalyan Kumar Mukherjee's case where the identical issue was raised and put at rest, including the objection taken by the respondents in the present OAs. Applicants therein were also similarly circumstance.

9. In so far as objection of the respondents resorting to the doctrine of estoppel and contending that once the benefit was extended to DEO w.e.f. 1.1.86 by virtue of the cases decided by the Tribunal to seek fresh option from the applicants, once the decision has attained finality as such their objection regarding option cannot be countenanced at this stage.

10. Regarding limitation the treatment meted out to the applicants therein was overruled as they were similarly circumstance with those applicants in decisions rendered by the Nagpur and Calcutta Benches of the Tribunal and having similar claim the Tribunal allowed their claim with all consequential benefits.

11. If one has regard to the aforesaid decisions and in the light of the Constitution Bench decision of the Apex Court in K.C. Sharma's case (supra) while seeking extension of the benefit of a judgment the law of limitation would not apply and in these cases as the representations of the applicants claiming extension of

the benefit of the earlier decisions have been pended by the respondents themselves, the law of limitation would have no application in the present cases.

12. Having satisfied from the material on record that the applicants in these cases are identically situated and similarly circumstance as those in earlier decisions of Nagpur and Calcutta Benches of the Tribunal as well as the latest decision in Kalyan Kumar Mukherjee's case (supra) they cannot be deprived of the benefit of the same and the same is to be extended to them in its entirety.

13. In the result and having regard to the reasons recorded above, the OAs are allowed. The respondents are directed to accord the same benefits to the applicants as in OA-602/96 by giving effect to revised scale of Rs.1600-2660 for DPAs w.e.f. 1.1.86 with all consequential benefits and also in OA-606/96 to effect the pay scale of Rs.1150-1500 prescribed for DEO 'A' and pay scale of Rs.1350-2200 prescribed for DEO 'B' w.e.f. 1.1.86 with all consequential benefits, within a period of three months from the date of receipt of a copy of this order. No costs.

14. Let a copy of this order be palced in the case file of each case.

S. Raju

(Shanker Raju)
Member (J)

S. Biswas

(S. Biswas)
Member(A)

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