

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, CALCUTTA

O.A. No.613 of 1996

Date of order 22.6.2000

1. Shri Sunil Kumar Das, son of Late Surendranath Das, 455, Dum Dum Park, Calcutta-55.
2. Shri Argha Das, son of Shri Sunil Kr. Das, 455, Dum Dum Park, Calcutta-55.
3. Mrs. Soma Das, wife of Shri Amita Das, 22/3, Roy Street, Calcutta-20.

.. Applicants

-versus-

1. Union of India through the Secretary, Ministry of Planning, New Delhi.
2. The Secretary, Ministry of Finance, North Block, New Delhi.
3. The Secretary, Department of Statistics, Ministry of Planning, Sansad Marg, New Delhi-1.
4. The Chief Executive Officer, National Sample Survey Organisation, Ministry of Planning, Department of Statistics, Sansad Marg, New Delhi-1.
5. The Director, National Sample Survey Organisation, Department of Statistics, Ministry of Planning, 164, Gopal Lal Tagore Road, Calcutta-35.

.. Respondents

Counsel for the applicants .. Mr. P. Chatterjee.

Counsel for the respondents .. Mr. K. C. Saha.

.. Mr. B. Mukherjee.

P R E S E N T: Hon'ble Mr. Justice S. Narayan, Vice-Chairman
Hon'ble Mr. L.R.K. Prasad, Member(A)

ORDER

L.R.K. Prasad, Member(A):-

This application has been filed praying for extension of benefits of judgment in O.A.774/93 delivered on 6.3.1996 by this Bench in favour of Late Smt. Mala Das (wife of applicant no.1).

2. We have heard the learned counsel for the parties and perused the materials on record. The deceased Mala Das initially joined National Sample Survey Organisation (NSSO) under the control of Ministry of Planning with effect from 12.4.1992. She was holding the

post of Data Processing Assistant on 1.1.1986 in pre-revised pay scale of Rs.330-560. She was promoted as Data Processing Assistant with effect from 10.3.1993 which is a newly designated post. On health ground, she retired from service with effect from 22.8.1993. She died on 8.9.1995. It is stated that consequent upon her death, the applicant no.1 is in receipt of family pension. It is further stated that applicant no.1's husband of Late Mala Das, applicant no.2 is son and applicant no.3 married daughter.

3. It appears that on the basis of recommendation of 4th Pay Commission, the scale of Rs.330-560 was revised to Rs.1200-2040. In terms of suggestion of the 4th Pay Commission, the Ministry concerned appointed a Committee in November 1986 under the chairmanship of Dr. N. Seshagiri for considering re-organisation with regard to development of a separate cadre for EDP staff with reference to their requirement in Government, pay structure of EDP personnel and related matters. The said Committee made certain recommendations on the basis of which O.M. dated 11th September 1989 (Annexure-A4) was issued. It is stated in the said O.M. that after careful consideration of the recommendations made by the Committee, the Government has decided to introduce pay structure for Electronic Data Processing post as mentioned therein. For the post of Data Entry Operator Grade 'B', pay scale of Rs.1350-2200 was prescribed. It is also mentioned that this will be entry grade for Graduates with knowledge of Data Entry work for promotional grade for Data Entry Operator Grade 'A'. The new pay structure was to be effective with effect from 11.5.1989. According to the applicants, Late Smt. Mala Das is entitled to the



aforesaid pay scale on the ground that her designation was recognised as Data Entry Operator Grade 'B' and the fact that her case is covered by the orders of various Benches of Central Administrative Tribunal, such as, the order of this Bench dated 6.3.1996 passed in O.A.282/93 and O.A.744/93. Her case is similarly situated to that of the applicants in O.A.282/93 and O.A.744/93. In the aforesaid two OAs, the main prayer of the applicants, who were working as Data Entry Operators in NSSO, Data Processing Division, under the Ministry of Planning, Department of Statistics, was that they are entitled to a revised pay scale of Rs.1350-2200 with effect from 1.1.1986 (the date of implementation of the recommendations of 4th Pay Commission) and not from 11.9.1989 when the relevant O.M. as at Annexure-A4 was issued. This prayer was allowed in terms of order contained in para 16 of the order (Annexure-A1). It may be pointed out that there is difference between the two OAs to the extent that the applicants of O.A.282/93 and O.A. 744/93 had filed the case when they were working as Data Entry Operators Grade 'B' whereas the instant O.A. has been filed by the legal heirs of the deceased employee after her superannuation. She is stated to have retired from service on medical ground with effect from 22.8.1993, the instant O.A. has been filed by her legal heirs in 1996.

4. The applicants have stated that Late Mala Das was promoted to the post of Data Processing Assistant in the pay scale of Rs.1600-2660 with effect from 11.3.1993, therefore, she is also entitled for refixation of pay in the promoted post in the pay scale of

Rs.1600-2660 with reference to corresponding stage of pay scale of Rs.1350-2200 in the feeder post.

To sum up, the prayers of the applicants are that the respondents should be directed to fix the pay scale of Rs.1350-2200 in favour of Late Mala Das with effect from 1.1.1986 with consequential benefits and to give the benefits of pay fixation in the promoted post as Data Processing Assistant with effect from 11.3.1993 with reference to the stage of pay scale in the feeder post, i.e., Data Entry Operator Grade 'B' in the scale of Rs.1350-2200 with consequential benefits.

5. While opposing the application, the respondents have stated that since the deceased Smt. Mala Das was not a party to any of the case referred to by the applicant, the question of extention of the benefits, as per order in those cases, does not arise. During the course of argument, the learned counsel for the respondents drew our attention to the order of the Hon'ble Supreme Court passed in Civil Appeal No.17964/93 (in Civil Appeal No.1453 of 1997) passed on 24th October 1997, whereby the Hon'ble Supreme Court allowed the appeal filed by the Union of India and others and quashed the impugned judgment of Central Administrative Tribunal, Principal Bench, New Delhi, dated 24th February 1993, directing payment of arrears to the respondents for the post of U.D.C. with effect from 1st January 1947 till the date of retirement.

6. The learned counsel for the applicants brought to our notice the order of the Hon'ble Supreme Court passed in the matter of Chandraprakash Madhavrao Dadwa and others vs. Union of India and others (reported in 1998 Vol.8 SCC page 154). The said case related to relegation of an employee to inferior status by the

process of fitment into revised pay scale. The case of the applicant is on a different footing and the applicant has claimed that she is entitled to a revised pay scale of Rs.1350-2200 with effect from 1.1.1986 as has been granted to the applicants of O.A.282/93 and O.A.744/93 referred to above. She has also claimed further revision of pay scale as Data Processing Assistant with effect from 1.1. 1993 with reference to the stage of pay scale in the feeder post, i.e., Data Entry Operator Grade 'B'.

7. We have taken note of the order passed by this Tribunal on 5.4.2000 in O.A. 1377 of 1995 whereby it was held that the applicants would ^{not} be entitled to get any arrear of pay on the basis of reclassification and fixation of their pay and they would only be entitled to get retirement benefit after notional fixation of their pay with effect from 1.1.1947 and till the date of their retirement; and thereafter they would be paid all the retirement benefits admissible to them and no arrears of pay would be admissible to them.

8. From the above, one thing is clear that ^{even if} one is entitled for refixation of his or her salary with effect from 1.1.1986 in the scale of Rs.1350-2200, he/she cannot be allowed the benefits of arrears pay from the date of entitlement to the date of superannuation.

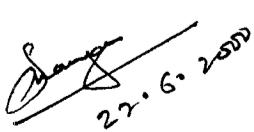
9; Even though the fact remains that the legal heirs of the deceased employee filed the instant O.A. after superannuation of her services, her case appears to be identical to the applicants of O.A.282/93 and O.A.744/93 to the extent that she is also entitled for the benefits extended to the applicants of those

OAs. However, after the order of the Hon'ble Supreme Court passed in Civil Appeal No.1453/97 in the matter of Union of India and others vs. R.D.Gupta and others (supra), the situation has changed with regard to payment of appears to a person who has filed the case after his retirement. The position has further been made clear in this regard in the order of this Tribunal passed on 5.4.2000 in O.A.No.1377/95.

10. In view of the above facts, we are of the considered opinion that the deceased employee is entitled for necessary benefits regarding fixation of her pay as Data Processing Assistant with effect from 1.1.1986 in terms of the order of this Tribunal Passed in O.A.282/93 and O.A.744/93 but without payment of any arrears of back-wages from the date of entitlement to the date of retirement. In view of the above facts and circumstances of the case, we hold that the deceased employee would not be entitled to get any arrear of pay on the basis of reclassification and fixation of her pay. However, her legal representatives would be entitled only to get the retiral benefits in accordance with law after notional fixation of pay of the deceased employee with effect from 1.1.1986 and till the date of her retirement. It is, however, made clear that no arrears of pay shall be admissible to the legal representatives of the deceased employee. The respondents are directed to act accordingly. This exercise should be completed by the respondents within a period of four months from the date of communication of this order. In terms of the aforesaid observations this O.A. is disposed of with no order as to costs.


22.6.2000
(L.R.K.Prasad)

Member (A)


27.6.2000
(S.Narayan)
Vice-Chairman