

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
OA 1291 OF 1996

Present : Hon'ble Mr. Justice G.L.Gupta, Vice-Chairman
Hon'ble Mr. B.P.Singh, Administrative Member

1. Mihir Mukhar Biswas
2. Pravas Kumar Sarkar

vs

1. Union of India through the
Secretary, Deptt. of Statistics,
M/o Planning, Sardar Patel Bhawan,
New Delhi
2. The Finance Secretary,
M/o Finance, North Block,
New Delhi
3. The Director General,
Central Statistical Organisation,
Sardar Patel Bhawan,
New Delhi
4. The Director, Central Statistical
Organisation, Sardar Patel Bhawan,
Samsad Marg, New Delhi
5. The Joint Director,
Central Statistical Organisation
(Industrial Statistical Wing),
1, Council House Street,
Calcutta-1

For the applicants : Mr. P.Chatterjee, Counsel
Mr. K.C.Saha, Counsel

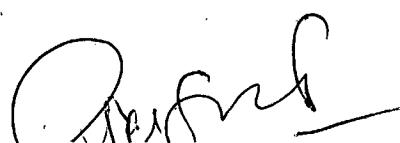
For the respondents : Mr. M.S.Banerjee, Counsel

Date of order : 25.1.2002

O R D E R

Per Justice G.L.Gupta, V.C.:

The applicants are Data Processing Assistants in the pay scale of Rs. 1600-2660/- . Initially they were appointed as Computer (Senior) but the post was re-designated after the 4th Central Pay Commission and the Data Entry Operators were placed in the pay scale of Rs. 1200-2040/-, which was corresponding to the pre-revised scale of Rs. 330-560/- . On the recommendation made by the 4th Pay Commission, a Committee under the Chairmanship of Dr. N. Seshagiri was appointed to examine the pay scales of technical posts under the Deptt. of Electronics. It gave its recommendation in favour of the Data Entry Operators. On the basis of the recommendation of the said



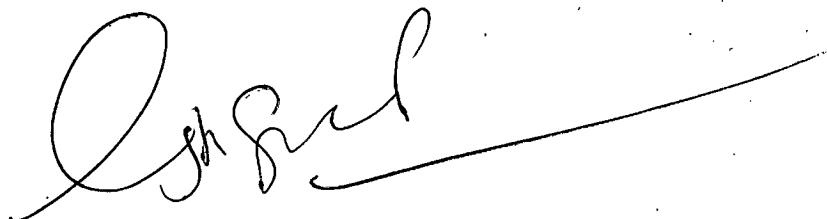
Committee, the pay scale of the Data Entry Operators, Gr. B was revised to Rs. 1350-2200/- w.e.f. 11.9.89. The Data Processing Assistant is the promotional post and the scale of pay of the Data Processing Assistant was revised to Rs. 1600-2660/- from erstwhile pay scale of Rs. 1400-2300/-.

The case for the applicants is that prior to the change of the pay scale to Rs. 1350-2200/- of the Data Entry Operators, they had already been promoted to the posts of Data Processing Assistants and their pay on the promotional post was fixed on the basis of the pay which was in the old pay scale of Rs. 1200-2040/-. Their further case is that in view of the decision given by the Tribunal, the Data Entry Operators have been given the benefit of the revised pay scale of Rs. 1350-2200/- w.e.f. 1.1.1986.

It has been prayed that the applicants be given the benefit of the pay scale of Rs. 1350-2200/- w.e.f. 1.1.86 as Data Entry Operators and their pay be refixed on the promoted post of Data Processing Assistants in the the revised pay scale of Rs. 1600-2660/-.

2. In the reply, the respondents have averred that the application is liable to be dismissed on the ground of delay and laches. It has been averred that the applicants had exercised their option for the existing revised pay scale w.e.f. 11.9.89 and therefore, they cannot now claim the benefit of the pay scale w.e.f. 1.1.86.

3. The contention of Mr. Chatterjee, 1d. counsel for the applicants was that pursuant to the decisions of this Tribunal, the Data Entry Operators have been given the pay scale of Rs.

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1350-2200/w.e.f. 1.1.86 instead of 11.9.89 and the applicants are, therefore, entitled to the benefit of that pay scale and also their pay on the promoted post is required to be refixed.

4. Mr. Banerjee, 1d. counsel for the respondents, on the other hand, contended that the claim of the applicants is time barred and they have come only on the basis of the judgments of the Tribunal. He submitted that if the prayer of the applicants is accepted, in that case, it should be directed that their pay shall be notionally fixed and they will not get any actual monetary benefit of fixation of pay.

5. We have given the matter our thoughtful consideration.

6. It is now no more in dispute that the pay scale of the Data Entry Operators was revised w.e.f. 11.9.89 consequent upon the recommendation of the Seshagiri Committee. The Data Entry Operators approached various Benches of this Tribunal. The Hyderabad Bench of the Tribunal in its order dt. 9.7.92 in OA No. 957 of 90 (Y. Jaganmohan Reddy & Ors -vs- UOI & Ors) held that the Data Entry Operators were entitled to the benefit of the pay scale of Rs. 1350-2200/- w.e.f. 1.1.86. The same view was taken by the Cuttack Bench of the Tribunal in OA No. 249 of 91 (Minaketan Mishra & Ors -vs- UOI & Ors) decided on 6.4.92. So also the Bombay Bench in OA No. 625 of 90 (K.D. Kehiraagar & Ors -vs- UOI & Ors) decided on 7.3.95 held that the Data Entry Operators were entitled to have the benefit of the revised pay scale w.e.f. 1.1.86. This Bench also held in favour of the Data Entry Operators in OA Nos. 282 of 93 (Chandan Kumar Roy & Ors -vs- UOI & Ors) & OA 744 of 93 (Jagabandhu Chatteraj & Ors -vs- UOI & Ors) decided on 6.3.96.

7. It is, therefore, obvious that the Data Entry Operators are entitled to the benefit of the pay scale of Rs. 1350-2200/- w.e.f. 1.1.86.



8. The case for the applicants is that they had been promoted to the posts of Data Processing Assistants before the decisions of the Tribunal, and, therefore, they are also to be given the benefit of the revised pay scale w.e.f. 1.1.86. Their claim cannot be said to be unjustified. The applicants cannot be denied the relief on the ground that they did not approach the Tribunal earlier. The matter was taken to the Tribunal by similarly situated persons. When the respondents have implemented the decisions of the Tribunal, it does not lie in their mouth to plead that there was delay on the part of the applicants to approach the Tribunal. There cannot be any justification for discrimination in the matter of effective date of applicability of the revised pay scale.

9. The applicants are, therefore, entitled to have the relief claimed at para 8(b) of the OA.

10. The Data Entry Operators, who were given promotion to the posts of Data Processing Assistants before the revision of the pay scale are certainly entitled to have the benefit of the revised pay scale of Rs. 1350-2200/- for the purpose of fixation in the scale of the promoted post. There cannot be any justification in denying the monetary benefits of fixation to the applicants, who have got promotion to the higher post. It was not because of their fault that their fixation was done on the basis of unrevised pay scale.

11. Consequently, the OA is allowed. The respondents are directed to give the benefit of the pay scale of Rs. 1350-2200/- to the applicants w.e.f. 1.1.86 as Data Entry Operators till their date of promotion as Data Processing Assistants. It is further directed that on promotion, their pay shall be fixed in the higher scale keeping in view their pay in the revised scale of Rs. 1350-2200/-. The

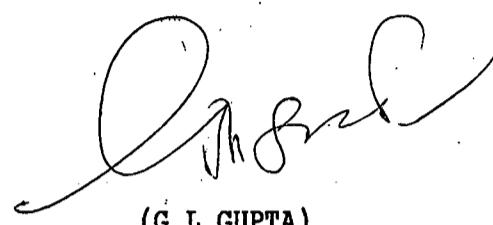


applicants shall get all consequential benefits of refixation. The directions be complied with within a period of three months from the date of communication of this order.

12. No order as to costs.

J.N.YADAV
(B.P.SINGH) 25012002

MEMBER(A)


(G.L.GUPTA)

VICE CHAIRMAN