

CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR

Date of Order : 13.9.1996.

1. O.A. No. 452/95

Ravi Kant.

... Applicant.

Vs.

Union of India and Ors.

... Respondents.

2. O.A. No. 453/95

Pradeep Kumar & Ors.

... Applicants.

Vs.

Union of India and Ors.

... Respondents.

...

CORAM :

The Hon'ble Mr. Ratan Prakash, Judicial Member

The Hon'ble Mr. S.P. Biswas, Administrative Member

...

Present :

Mr. Y.K. Sharma, Counsel for the Applicants.

Mr. R.K. Soni, Counsel for the Respondents.

...

PER HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

The details of facts, reliefs sought for and the legal issues raised in these O.As are the same and hence, they are being disposed of by a common order.

2. The applicants, both 1st Firemen of Bikaner Division of Northern Railway under the respondent No.2, are aggrieved on account of their pay not being fixed at Rs.1120/- w.e.f. 1.1.1986 (alongwith other consequential benefits) which have been granted to their juniors.

3. The case of the applicants is that in terms of the Railway Board's letter dated 25.6.1985, 30% posts of

- 4 -

Fireman 'C' (Grade Rs.210-270 (RS), were upgraded to grade Rs.260-350 w.e.f. 1.1.1984. Accordingly, 74 posts out of 246 were upgraded to the grade of Rs.260-350 (RS). The grade of Rs.260-350 (RS) has since been revised to grade Rs.825-1200 (RPS) w.e.f. 1.1.1986. The applicants pay as on 31.12.1985 were Rs.260/- and accordingly, their pay should have been fixed at Rs.1120/- on 1.1.1986. The applicants came to know about the anomaly only in 1993 when they noticed that their juniors are getting higher pay in the wake of re-structuring of the post w.e.f.

1.3.1993. The applicants submitted their representations vide letter dated 19.4.1994/24.5.1994 respectively (Annex-A-1 in both applications). However, they did not receive any response from the respondents and have been forced to approach this Tribunal for relief in respect of their pay fixation. They contend that this is a case of discrimination and an infringement of the fundamental rights and continuing cause of action.

4. The respondents in their preliminary reply-statement have raised an objection of limitation. The respondents averred that the cadre of Fireman Grade 'C' at the time of re-structuring on 30.12.1983 was 246. To improve the cadre position under the re-structuring scheme for the said category, 74 posts i.e. 30% of 246 were upgraded w.e.f. 1.1.1984 in the grade of Rs.260-350. The senior most 74 persons were considered and given the benefit of cadre re-structuring vide letter dated 31.12.1985. Since the applicants joined the up-graded post w.e.f. 16.1.86/ 11.1.86 and since they were getting pay of Rs.238/242 at the relevant time, their pay was fixed at Rs.1040/- in the revised scale of Rs.825-1200 (RPS) and hence, there is no irregularity.

5. We find that respondents have fixed the pay of applicants at Rs.1040/- in the revised scale taking their pay at Rs.238/- (RS) as on 31.12.1985. (Q)
210

6. The issues for determination are (i) whether the applications are hit by limitation and (ii) whether the applicants are entitled for stepping up of their pay with reference to their juniors whose pay have been fixed at higher levels?

7. According to the respondents, the cause of action arose either on 31.12.1985 or on 1.1.1986. As per the applicants, they came to know the salary differential, with reference to their juniors, only on 1.3.1993. Taking all this into factors, the period of limitation was over by 28.2.1994, the respondents argued. The respondents have also submitted that since the applicants have not moved an application for condonation of delay, the QAs deserve to be dismissed on that count alone. It may be mentioned here that where the fixation of pay was not in accordance with rules, it is continuing wrong and such applications/claims cannot be barred by principles of limitation. With this law laid down by the Hon'ble Supreme Court in the case of M.R. Gupta Vs. Union of India and Others, (1995 (2)ATJ 567), the plea of limitation by the respondents cannot be sustained.

8. We find in the promotional order dated 31.12.1985 (Annex.A-2) that the applicants are at serial Nos. 5,14,25 and 26 respectively. The promotion of the applicants were with immediate effect having the pay of Rs.260/- (RS) and accordingly this should have been corelated with the fixation of pay at Rs.1120/- as on 31.12.1985 in the revised

pay scale. The applicants had followed their cases with representations, unfortunately, the respondents have not cared to intimate them as to how the differential has taken place. The preliminary objections submitted by the respondent No. 3, do not also bring out the details of the reasons for which the applicants could not be provided the relief as claimed for, particularly when the pay of their juniors have been fixed at a higher level. The pleadings are incomplete.

9. It is well settled that it is the ~~incumbent~~ for each occupant of every high office to be constantly aware ^{that} with the power vested in the office he holds is meant to be exercised in public interest and only for public rule. Constant awareness of the nature of this power and the ^{would} purpose for which it is meant/prevent situations leading to such avoidable litigations. (See : State of Assam Vs. P.C. Mishra and Others, 1966 SCC (L&S) 169).

10. In view of the aforementioned discussions, we direct the respondents to reconsider the claims of the applicants herein, in accordance with the rules and pass appropriate reasoned orders for each one of them separately. The applicants may also be intimated of the decision taken in the matter. This shall be done within a period of three months from the date of receipt of a copy of this order.

11. Accordingly, the O.As No. 452 and 453 of 1935 stand disposed of at the stage of admission. Let a copy of this order alongwith a copy of both OAs be sent to the respondents by the Registry.

Part II and III destroyed
in my presence on 29/1/03 S.P. BISWAS
under the supervision of
section officer (J) as per
order dated 19/3/2003

Sd/-
S.P. BISWAS
MEMBER (A)

प्रमाणित सही प्रतिलिपि
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

Sd/-
(RATAN PRAKASH)
MEMBER (J)

Section officer (Record)