

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 378/2009

Tuesday, this the 20th day of March, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

Saroja Ramachandran Iyer,
W/o late T.N.Ramachandran Iyer,
Residing at 704, Onyx, Nirmal Lifestyle, LBS Marg,
Mulund (West), Mumbai-400 080. - Applicant

(By Advocate Mr M.R.Hariraj)

v.

1. Union of India represented by the Secretary to Government of India, Ministry of Finance, New Delhi.
2. Secretary, Ministry of Urban Development, New Delhi.
3. Director, (PSP Division), Ministry of Urban Development, New Delhi.
4. Manager, Government of India Press, Koratty.Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC)

This application having been finally heard on 14.03.2012, the Tribunal on 20.03.2012 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

At the very outset, it is to be mentioned that this OA was initially filed by Shri T.N. Ramachandra Iyer, and during the pendency of the proceedings as he had expired, his wife Smt. Saroja Ramachandran Iyer, as his legal heir got

substituted vide Docket order dated 15-10-2009. However, the Government employee is addressed as 'the Applicant.'

2. The admitted facts of the case are as hereinafter mentioned. The applicant T.N. Ramachandran Iyer, an ex Territorial Army personnel, was initially appointed as a Lower Division Clerk in the Government of India Press, Nashik in November, 1956, transferred to the Government Press at Koratty where, on 23-02-1972 was promoted to the post of General Store Keeper (GSK) in the erstwhile pay scale of Rs 210 – 320 (which was later on revised to 425 - 600). And, on reaching the age of superannuation, he retired from Government service on 28-02-1987.

3. The claim of the applicant relates to revision of pay scale. Initially, his claim was for grant of pay scale from 425 – 600 to Rs 450 – 575 on the ground that in the Railways, for the said post of General Store Keeper, Railway Press, the pay scale was Rs 450 - 575. Of course, there had been some changes in the claim that the pay scale should be Rs 425 – 700 and not Rs 425 – 600 which had been made available to the applicant. In this regard, the following legal proceedings had taken place:-

(a) OA No. 1207 of 1991 before this Bench, which was dismissed on 01-08-1995.

(b) Against the aforesaid order of the Tribunal, SLP© No. 23255/1995 was filed, which was also dismissed on 10-11-1995. (Review application filed for review of the afore said order of the Apex Court was also dismissed on 22-02-1996).



(c) OA No. 842 of 1998 filed before the Mumbai Bench claiming that the pay of the applicant was not properly fixed on the pay scale recommended by the Third Pay Commission, was dismissed in limine, vide Order dated 12-10-1998.

(d) OA No. 919 of 1999 filed was also dismissed on the ground of unsuccessful repeated applications, vide order dtd 07-02-2001. Writ petition filed against the above order in OP No. 17236 of 2001 had also been dismissed by the High Court on 07-02-2001.

(e) OA No. 65 of 2002 filed before this Bench was dismissed on 24-10-2002.

(f) OA No. 452 of 2003 also met the same fate of dismissal with the observation that the same is a frivolous and vexatious application on an issue which was considered and rejected several times in the past, apart from the fact that the same was hit by limitation, as the applicant sought the relief from 01-01-1973.

4. Undaunted by the successive failure in his decades long litigation, the applicant moved OA No. 678 of 2005 which was disposed of with the following order:-

"Learned counsel for respondents, under instructions, submits that the applicant and been directed to give a fresh representation vide O.M dated 17.4.2007 and that such a representation has been received which is under consideration. Learned counsel for applicant also corroborate this fact and states that a personal hearing had been given to the applicant and that the matter is receiving attention.

2. Recording this submission, the o.A is disposed of with a direction to the respondents that they shall communicate a decision to the applicant and report the action taken to this court within a period of three months from the date of receipt of copy of this

order. No costs."

Thus, a new lease of life having been granted by the very respondents, the applicant pursued his matter in the 'administrative sphere'. After affording an opportunity of hearing, the Administration recorded a note on 30-07-2007, vide Annexure A-4 (4-5)of the OA, inter-alia stating as under:-

"5. In this connection it is stated that the following points are in favour of Shri Iyer:

- (i) The work load projected by Shri Iyer was comparable to / more than equal to that of Depot Store Keeper of the Railway Press which post carried a higher Pay Scale of Rs.450-575 (i.e. Rs.2000-3200 in IV Pay Commission);
- (ii) He was the only GSK Regular in the GIPs and all other incumbents were on deputation basis only; implying inter alia, that in view of absence of a regular Cadre, his words did not carry weight and
- (iii) As per the Fifth Pay Commission, the pay scale of GSKs has been fixed at Rs.5000-9000 w.e.f. 1.1.96. This is what Shri Iyer was fighting for all along.

6. There is, therefore, some justification in the contention and consequently for approaching the Ministry of Finance to consider the request of Shri Iyer for equivalent pay scales of Rs.400-700 from 1.1.1973 and Rs.1400-3000 w.e.f. 1.1.86.

7. Financial Implications:: The details of financial implications is given at pages 75-82/C. It may be seen therefrom that there is not much difference in this regard.

8. As per the Due Drawn Statement drawn up by the GIP Koratty, vide pages 76-83/cor., while there will be no arrear whatsoever for the period 1.1.73 to January 1983, for the period February 1983 to February 1987 the total arrears work out to Rs.5729.40. He will also be entitled to minor increase in pension all these years.

9. Since the pay scale which Shri Iyer had been fighting for all along has been finally considered and approved by the Vth CPC, and keeping in view the CAT's order dated 25.4.2007 we may, therefore, if approved, refer the file to Ministry of Finance through IFD for their examination and consideration of the request of Shri Iyer as at para 6 above."

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5. The Internal Finance Division of the administrative Ministry, vide its note dated 08-08-2007 opined as under:-

"5. The Administrative Division has stated in their note at p.18-10/N that Government has now granted the scale of Rs.5000-9000 w.e.f. 1.1.96 for GSK which is equivalent to the pre-revised scale of Rs.425-700 w.e.f. 1.1.1973 and Rs.1400-2300 w.e.f. 1.1.88. Shri Iyer retired on superannuation in 1987. He is now more than 77 years old. He was the only GSK in Government of India presses appointed on regular basis as all other GSKs are on deputation basis for limited duration. The financial implication worked out for payment of arrears is very nominal, i.e. Rs.5729/- only (83/c). Since at present there is no regularly appointed GSK in Government of India Presses (GIP), there will be no other case of this nature.

6. It will be seen from the above that before 1.1.1973, the pay scale of Ward Keeper in Railways and GSK in GIP were the same at Rs.210-320. A disparity arose after implementation of Third Pay Commission recommendation w.e.f. 1.1.1973 when the pay scale given to Ward Keeper was Rs.425-700 whereas the GSK in GIP was given only Rs.425-600. From 1.1.1996, this disparity has been removed and the GSK in GIP has been given the pay scale of Rs.5000-9000 the corresponding scale of Rs.425-700 of Third Pay Commission scale. In view of this, there is some valid ground for the applicant to claim higher pay scale."

6. The Ministry of Finance, Department of Expenditure E III (B) Branch, recorded its disapproval of the recommendations of the Administrative Ministry in the following words:-

"2. It is observed that no specific comparison in terms of the level of responsibilities, mode of recruitment, recruitment qualifications etc. between the two posts has been carried out with a view to establish parity in such matters. However, it is observed that the judgment of CAT dated 25.4.2007 has directed the respondents to give a decision to the applicant. It is, therefore, advised to apprise the CAT of this Department's regrettable for the following reasons:

(i) The contention of the applicant for grant of pay scale of Rs.425-700 w.e.f. 1.1.1973 on the grounds that the pay scale of Ward Keeper in RPPS was revised to Rs.425-700 whereas that applicable to the post of General Store Keeper to Rs.425-600 based on the recommendations of the Third Pay Commission has already been agitated in various Courts including the Apex Court but was not accepted.



(ii) In accordance with the judgment of Supreme Court in Civil Appeal No.1532/2005, two groups of employees may be doing the same work, yet they may be given different pay scales if the educational qualifications are different. Also, pay scale can be different if the nature of jobs, responsibilities, experience, method of recruitment, etc. are different. In view of this, it needs to be established that there is wholesale identity between two posts in terms of these parameters so as to claim parity in pay scales."

7. The respondents have, on the basis of the above note of the Main Ministry of Finance had rejected the claim of the applicant vide Annexure A-5. It is this order that has been impugned in this OA, seeking the following reliefs:-

- (i) To call for the records leading to Annexure A5 and quash the same and to declare that the applicant is entitled to be granted the pay scale of 425-700 with effect from 1.1.1973 with all consequential benefits including arrears of pay and allowances and direct the respondents accordingly.
- (ii) Alternatively to direct the respondents to consider the review application of the applicant at Annexure A-6 and A-7 and to reconsider Annexure A-2 within a time limit to be fixed by this Hon'ble Tribunal.
- (iii) Grant such other reliefs as may be prayed for and the court may deem fit to grant, and
- (iv) grant the costs of this Original Application.

8. Respondents have contested the O.A. They have brought out the details of various applications filed by the applicant and submitted that nodal Authorities i.e. Ministry of Finance issued order only after detailed study of the facts and grounds of the case. It has also been stated that the applicant is not the only General Store Keeper in the Government of India Press. The post of General Store Keeper is available in all Government of India Presses all over India, with the pay scale of Rs 425 – 600.

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9. Counsel for the applicant gave a brief description of the case of the applicant right from the beginning and invited our attention to the comprehensive note of the Administrative Ministry, which reflected even the financial implication which works out to less than Rs 6000/- and the fact that the applicant was the only GSK Regular in the Government of India Presses and all other incumbents were on deputation basis only. Counsel for the applicant submitted that the rejection of the case of the applicant by the Ministry of Finance is without application of mind and thinking that the applicant had been agitating again and again on the very same issue. Whereas, the earlier litigation was in respect of higher pay scale of Rs 450 – 575 the present case is, as appreciated by the very Administrative Ministry on a different footing and for a pay scale of Rs 425 – 700. He has also stated that the case was reconsidered by the Ministry and the recommendations were after full analysis and after satisfying the genuineness of the case of the applicant, while the Ministry of Finance in a cryptic note rejected the case.

10. Counsel for the respondents submitted that the history of the case of the applicant would reveal that he had filed a number of O.As before the Tribunal and the case once dismissed at the Apex Court level cannot be allowed to be resurrected.

11. Arguments were heard and documents perused. While it is not possible for this Bench to have a look at the OA filed before the Mumbai Bench, orders of this Bench in the following OAs filed before this Bench have been perused and the same reveals as under:-



Sl No.	O.A. Nos	Relief sought for and decision
1	OA No. 1207 of 1991	<p>In this OA the applicant had prayed for revision of pay scale of General Store Keeper from Rs 425 – 600 to either Rs 455- 700, which was the pay scale of Store Keeper (Publications) or Rs 550 – 750 which was the pay scale of Store Keeper (wholesale). The Tribunal, in its order dated 01-08-1995 referred to an earlier OAK No. 245/87 wherein his prayer was for grant of pay scale of Rs .1640 – 2900 from 01-01-1986, while in the instant OA the pay scale sought for was for a higher scale of Rs 2000 – 3200. In Para 19 of the Order dated 01-08-1995, the Tribunal held "<i>It is therefore seen that considering the position of the applicant in the hierarchy and the recommendations of the CTPC and CFPC his scale of Rs 210 – 320 was correctly revised to Rs 425 – 600 and then to Rs 1350 – 2200.</i>" Prayer for equation of the post of General Store Keeper in the Government of India Press on par with Depot Store Keeper I of the Railways from 10-01-1973 was thus dismissed. (Against this order the applicant preferred SLP(C) No. 23235 of 1995 which was dismissed by order dated 10-11-1995. .</p>
2	OA No. 919 of 1999	<p>Relief sought for in this OA, inter – alia includes a declaration that the nature of duties of the posts of General Store Keeper of the Govt of India Press and the Depot Store Keepers of the Railway Press are identical and direct the respondent to grant the applicant the same pay scale of Rs 2000 – 3200 with effect from 01-01-1986 granted to the latter and pay him all the consequential benefits with 18% interest. The Tribunal in its order dated 07-02-2001 referred to the earlier decision in OA No. 1207 of 1991 and held that in view of identical prayers in the two OAs, the court held, "<i>The applicant cannot go on filing successive Applications for the same relief. In these circumstances, this O.A. is only to be dismissed.</i>" (Writ Petition in OP No. 17236 of 2001(S) filed by the applicant before the Hon'ble High Court of Kerala was dismissed by judgment dated 23-08-2001.)</p>

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Sl No.	O.A. Nos	Relief sought for and decision
3	OA No. 65 of 2002	On the basis of the latitude given to the applicant by the Tribunal in the earlier OAK 245 of 1987 to move a representation, the applicant moved such a representation and on the rejection by the respondents of the same, this OA had been filed by the applicant. The Tribunal by its order dated 24-01-2002, referring to the decision of the Constitution Bench of the Apex Court in S.S. Rathore vs State of Madhya Pradesh (AIR 1990 SC 10) dismissed the OA as time barred. OP No. 24721 of 2002-S before the High Court of Kerala was also dismissed vide judgment dated 06-09-2002.
4	OA No. 452 of 2003	The applicant's claim in this OA was also for an appropriate pay scale to the post of General Store Keeper and tracing out the earlier history of the case, the Tribunal observed, " We are constrained to observe that the applicant, a very senior citizen is trying to abuse the process of court by engaging himself in repeated vexatious litigations, which ordinarily should have been taken a very serious note of and dealt with in accordance with law. "

12. In addition to the above, the Applicant had filed OA 1551 of 98 which was rejected under section 19(3) of the Administrative Tribunals Act. And in all the above cases, Review Applications were also filed which were all dismissed.

13. A perusal of the above would reveal that the claim of the applicant has throughout been for revision of pay scale of the post of General Store Keeper and consistently, the Tribunal has held that the claim of the applicant could not be allowed by the Tribunal.

14. OA 678 of 2005 which also relates to the very same issue was not dealt with on merit by the Tribunal as the counsel for the respondents under instruction submitted that the applicant had been directed to give a fresh representation and that such a representation had been received which was under consideration. It was this representation that was considered by the

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Administrative Ministry which recommended the case to the Ministry of Finance but the latter Ministry had, on two grounds, as contained in its noting dated 09-10-2007 rejected the claim of the applicant.

15. Counsel for the applicant argued that the Ministry of Finance had not considered the detailed note of the Administrative Ministry. He had further contended that the earlier cases filed by the applicant were for a different pay scale (Rs 700 – 900), while what the Administrative Ministry dealt with in their noting related to pay scale of Rs 425 – 700 for which the Ministry had opined that at least three points weighed in favour of the applicant. Noting dated 30-07-2007 at Annexure A-4 refers. He has also referred to the negligible financial implication and also submitted that the extent of expenditure incurred by the Department in defending the case would have been much more.

16. The above submission initially was, *prima facie*, felt convincing that the earlier claims were different compared to the present claim of the applicant but when the records have been perused it is observed that the Ministry of Finance is not wrong in referring to the attempt made by the applicant for identical claim which had been turned down upto the Apex Court level. The Administrative Ministry had taken the thread to consider the case of the applicant only from the latest OA No. 678 of 2005, without reference to the earlier unsuccessful attempt by the applicant for the same relief, whereas, the Ministry of Finance had taken into account the earlier cases filed by the applicant and the results thereof. The Ministry of Finance was fully right as its view is in tandem with the observation of the Tribunal in para 6 of order dated 12-08-2003 in OA No. 452 of 2003 wherein it has stated, that the claim of the applicant for an appropriate pay scale with effect from 01-01-1986 "had been dead and buried and that repeated unsuccessful representations would not give a re-birth to a time barred

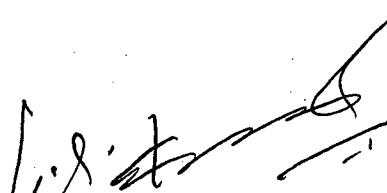
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"cause of action." Had the earlier claims been on different footing, the Tribunal would have remanded the matter back to the Ministry of Finance for reconsideration taking into account the views of the Administrative Ministry. That being not the case, the Tribunal is fully convinced that the claim of the applicant right from the beginning had been one and the same and since in the earlier OAs, the matter had been conclusively decided, there is no scope of consideration afresh of the claim of the applicant.

17. The OA thus lacks merit and is therefore, **dismissed**. No cost.



K. NOORJEHAN
ADMINISTRATIVE MEMBER



Dr K.B.S. RAJAN
JUDICIAL MEMBER

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