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OFFICE OF THE ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH

O.A.No.191/1990

Jai Prakash

Applicant

versus

Union of India & others

Respondents.

Hon.Mr. Justice G.C. Srivastava, V.C.

By this application, the applicant who was initially appointed as Senior Computer in Ganga Basin Water Resources Circle in the year 1969 and later on was promoted as Senior Computer on 13.12.1972 has prayed for issue of direction to the respondents to allow him the revised pay scale of Rs 425-700 and thereafter the revised pay scale of Rs 1400-2300 w.e.f. 1.1.1973 on the actual basis and all the arrears of difference to pay scale w.e.f. 1.1.1973 to all the incumbents to the post of Senior Computer including the applicant. The promotion to the post of Senior Computers was governed by the Non-Ministerial and Ministerial Class III posts, Recruitment Rules, 1963 as amended from time to time, which indicate that the post of Senior Computer is a non selection post and was to be filled 100% by promotion failing which by direct recruitment from amongst Junior Computers. The earlier pay scale of Senior Computers was Rs 150-380 which was based on the recommendations of Second Central Pay Commission. The revised pay scale of Rs 425-700 (partly) and Rs 330-560 (partly) was made on the basis of the third Central Pay Commission. The scale revised to the post of

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Senior Computers was raised to Rs 425-15-500-EB-15-560-20-700 (partly) and 330-560 (partly) as indicated above. The Ganga Basin Water Resources Organisation was merged in the Central Water Commission in 1978 and its employees became employees of the said Commission. Two of the senior computers who like the applicant was also working in the Ganga Basin Water Resources Organisation filed a writ petition before the High Court of Delhi challenging the revised pay scale to the extent of Rs 330-560 and in not giving them scale of Rs 425-700 to all the Computers which were transferred to the Central Administrative Tribunal and the Principal Bench vide its judgment and order

dat 11.4.86 allowed the same. The order revising the pay scale attached to the post of Senior Computers to Rs 330-560 was quashed and the petitioners were declared entitled to post of Senior Computer in their revised pay scale of Rs 425-700, and all attendant benefits including all arrears w.e.f. the date of revised pay scale of Rs 425-700, became effective. The respondents were directed to calculate the amount due to the petitioners and pay the same within 3 months. One Shri Ram Chanderan Senior Computer also filed application before this Tribunal at Lucknow which vide ~~xxxx~~ order dated 28.3.1989 allowed the same and directed the respondents to allow them revised pay scale to the post of Senior Computers w.e.f. the date they are entitled to together with all consequential benefits like arrears of pay and allowances and seniority etc. within a particular

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time. Vide said judgment Senior Computers were placed in the pay scale of Rs 425-15-560-20-700 (pre revised)/ Rs 1400-40-1800-EB-50-2300 (revised) w.e.f. 1.1.73 from the date of their appointment as Senior Computer junior scale with all the consequential benefits. The grievance of the applicant is that the persons who are similarly placed have been given benefit of the judgment which has become final and benefit of same has been given to those who filed the application before the Tribunal, have been given the benefit of arrears w.e.f. 1.1.1973. The respondents contended that the proposal to extend the judgment to the similarly placed Senior Computer was considered in the Ministry of Water Resources in consultation with the Ministry of Finance, and it was decided that benefits of higher pay scale may be extended only to those similarly placed Senior Computers who were in the scale of Rs 330-560 based on the recommendations of 3rd Central Pay Commission w.e.f. 1.1.1973 on actual basis from 1.2.1988. Accordingly the benefit of senior scale was extended to similarly placed junior computers vide office memorandum dated 24.2.1989. According to the respondents the senior scale of Rs 425-700 can be extended to those computers who fulfill the requirement as stipulated, in Memorandum dated 24.2.89. The benefit of the senior scale of Rs 425-700 could be extended only to those Senior Computers who fulfilled the requirements as stipulated in the said memorandum dated 29.2.89 issued by Ministry of Water Resources.

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2. The facts stated above that the applicant is similarly placed like those who approached the Tribunal and got the benefit of arrears with effect from a particular date. The State is employer and it should not practice discrimination criteria class within a class extending benefit of a judgment to those who approached the Court of law against its injustice and deny it to those who could not take to be litigant minded even if desired by and wait for the result of a litigation extended by similarly placed employees which is a matter which is of in common interest. The not allowing the scale merely on the grounds that they were not applicants, is arbitrary and discriminatory. Accordingly this application is allowed to the extent that the respondents are directed to allow the applicant the revised pay scale of Rs 425-700 and the revised pay Rs 1400-2300 which has been given to ^{actually,} him with effect from 1.2.1988 ^{retrospectively with effect from 1.1.83} but will get arrears for ^{from before this date of 1.2.1983} a period of 3 years only ^{as he did not claim it earlier} as he did not claim it earlier.

No order as to costs.



Vice Chairman.

Lucknow: Dated 10.7.92.

SMC