

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW ~~XXXXXX~~ BOMBAY

CAMP : NAGPUR

O.A. No.s. 946/89 & 952/89 198

~~XXXXXX~~

DATE OF DECISION 21.6.1990

Sh.P.R.Gandhi & Sh.R.M.Bhaskarwar Petitioner

Shri G.P.Hardas

Advocate for the Petitioner(s)

Versus

Union of India & ors.

Respondent

Ms. N. R. Sarin

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.S.Chaudhuri, Member (A)

Mr 21/6

The Hon'ble Mr. D.K.Agrawal, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Yes

Y/N

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH, NEW BOMBAY

CAMP : NAGPUR

(1)

OA.NO. 946/89 & O.A.No. 952/89

Shri P.R.Gandhi & Shri R.M.Bhaskarwar ... Applicants

vs.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (A) Shri P.S.Chaudhuri  
Hon'ble Member (J) Shri D.K.Agrawal

Appearance

Mr.G.P.Hardas  
Advocate  
for the Applicants

Ms.N.R.Sarin  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 21.6.1990

(PER: P.S.Chaudhuri, Member (A)

These two applications filed under Section 19 of the Administrative Tribunals Act, 1985 can be conveniently disposed of by a common judgement as the issues in the applications are identical.

2. Both the applications were filed on 26.12.1989. Both the applicants are Tax Recovery Officers in the Income-Tax department and the prayers in both the applications are that their pay on promotion be fixed taking into consideration the special pay drawn on the date of promotion.

3. We have heard Mr.G.P.Hardas, learned advocate for the applicants and Ms.N.R.Sarin, learned advocate for the respondents. Ms. Sarin took the plea of limitation but we are quite unable to go along with her. The applicant in OA. 946/89 had submitted a representation on 9.9.1988 claiming the benefit of equal <sup>treatment</sup> ~~direction~~ on the basis of the judgement of the Ahmedabad Bench of this Tribunal

(S)

delivered on 28.1.1988 in T.A.No. 184/86. We may mention that this judgement was based on a judgement of the Kerala High Court in O.P.No. 4014/77 in which an identical claim had been raised.

In OA. 952/89 the applicant had submitted a similar representation on 1.8.1989. We were informed across the bar by Mr. Hardas that no final reply has yet been received to either of these two representations. Thus, the stipulated period of six months followed by one year had not yet lapsed when the original applications were filed. Therefore the applications are within time.

4.5. The legal position has also been enunciated by Supreme Court in the case of K.I.Shepherd v. UOI, Judgement Today 1987(3) SC 600 and Judgement Today 1987 (1)SC 147 Abid Hussain v. UOI, wherein Hon'ble Supreme Court has laid down that if some people approach court and not others, the benefit to all similarly situated persons have to be conferred by the department. In such a situation the department has to consider and dispose of the <sup>applicants' representations on the basis of the</sup> ~~ever rejected~~ decision ~~as~~ mentioned <sup>the</sup> above.

5.6. In this view of the matter, we are of the opinion that these applications are pre-mature and can be best finally disposed of by giving a suitable direction to the respondents.

6.7. We accordingly order that these applications are summarily rejected under Section 19(3) of the Administrative Tribunals Act, 1985 with the direction to the respondents that they shall dispose of the representations of the applicants mentioned above in accordance with law within a period of 3 months from today. In the circumstances of the case, there will be no order as to costs.

D.K. Agrawal  
(D.K.AGRAWAL)  
MEMBER (J)

O. Chaudhuri  
(P.S. CHAUDHURI)  
MEMBER (A)

(6)

CAMP AT NAGPUR

Misc. Petition Nos. 9/91 and 10/91  
in  
Original Application Nos. 946/89 and 952/89.

Tribunal's Order:-

Dated: 24.4.1991.

As these two cases were decided by a common order, we are disposing of ~~mf~~ identical Misc. Petitions in these two cases by this common order.

2. Applicant by Mr. G. P. Hardas. Respondents by Ms. N. R. Sarin.

3. Mr. Hardas moves M.P. N-9/91 and 10/91 seeking restoration of O.A. 946 and 952/89. But O.A. 946 and 952/89 are already decided on merits, after hearing learned counsels for both sides, by our order dt. 21.6.1990 and so there is no question of restoration of ~~these~~ applications. Faced with this predicament Mr. Hardas contended that the respondents had not carried out the directions contained in the Judgment and order dt. 21.6.1990. That may or may not be so, but such a challenge cannot be made by way of an M.P. in an already decided application.

4. We accordingly reject M.Ps N-9/91 and 10/91.

T. C. Reddy  
(T.C.REDDY)  
MEMBER (J)

P. S. Chaudhuri  
(P.S.CHAUDHURI)  
MEMBER (A).