

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 600/2001.

DATE OF DECISION 24.09.2003

Smt. E.S.S. Almeida

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

Shri R.A. Desai

... Advocate for  
Respondents.

Coram: Hon'ble Shri S.G. Deshmukh, Member (J),  
Hon'ble Shri S.P. Arya, Member (A).

1. To be referred to the reporter or not?
2. Whether it needs to be circulated to other Benches  
of the Tribunal?
3. Library? Yes

  
(S.G. DESHMUKH)  
MEMBER (J)

B.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.800.2001.

Wednesday, this the 24<sup>th</sup> day of September 2003.

Hon'ble Shri S.G.Deshmukh, Member (J),  
Hon'ble Shri S.P.Arya, Member (A).

Smt.E.S.S.Almeida,  
67, Sagar Society,  
Dona Paula-Goa,  
Goa - 403 004.  
(Applicant in person)

...Applicant.

v.

1. The Director General,  
Council of Scientific and  
Industrial Research (CSIR),  
Anusadhan Bhawan,  
Rafi Marg,  
New Delhi.

2. The Director,  
National Institute of Oceanography,  
Dona Paula,  
Goa - 403 004.  
(By Advocate Shri R.A.Desai)

...Respondents.

: O R D E R :

{S.G.Deshmukh, Member(J)}

The applicant has filed this O.A. for quashing and setting aside OM No.1/94/70-NIO-1 dt. 28.7.2000 and fixing her pay afresh consequent upon the implementation of CAT Order in O.A. No.457/91 dt. 15.6.1994 in letter and spirit without reducing her pay by granting pay protection.

2. The applicant had filed O.A. No.457/91 before this Tribunal. This Tribunal allowed her O.A. on 15.6.1994 and directed the Respondents to give benefit of Special Grade higher scale of Rs.425-800/1400-2600 w.e.f. 1.8.1984 instead of 18.12.1986. According to the applicant, the Judgment and Order of this Tribunal is not implemented. The arrears of salary i.e. the difference between the salary already paid and the salary payable in terms of the judgment of the Tribunal has not been paid. On the contrary, her salary is reduced by some interpretation defeating the Judgment and order of the Tribunal

and she has been placed in a situation worst than before filing the O.A. She had filed Contempt Petition No.1/1995. The Respondents had made the statement that arrears have been paid. It is also contended that in the case of Shri Cesar N.R.Moraes who is similarly situated, was denied pay protection and the Tribunal by its order dt. 9.4.1997 ruled that this was incorrect. She contended that her plea about fresh fixation consequent upon the implementation of the Judgment in O.A. has been rejected by order dt. 28.7.2000 and thus she has filed this O.A.

3. The Respondents appeared and filed their affidavit in reply. The respondents contended that the applicant has attempted to rake up and seek review of the Judgment and Order dt. 15.6.1994 passed by this Tribunal in O.A. No.457/91 and the order dt. 9.4.1997 in C.P. No.1/1995. The applicant was granted benefit of special grade w.e.f. 1.8.1984 instead of 18.12.1986. While suppressing the benefits taken by her, she has only raised the grievance of recovery of excess payment made to her during the pay fixation done prior to the order dt. 15.6.1994. The Respondents have contended that they complied with the order in totality. They have annexed the details of pay fixation done by them pursuant to the Judgment and Order dt. 15.6.1994. They realised that for some period the applicant was paid more than what was actually due to her. They have annexed a tabular chart for the entire period from August, 1984 to July, 1995 wherein it is shown what was due to her in terms of pay fixation pursuant to the orders of this Tribunal and actual amount drawn by her till then. There was an excess payment of Rs.4018/-.

They initiated

the recovery of the said amount in instalment from the salary of the applicant. It is also contended that Shri Ceasar N.R.Moraes was granted the benefit of his past service on temporary basis by this Tribunal while disposing off the O.A. No.543/1996. The facts of the said applicant and the present applicant are entirely different. The Contempt Petition No.1/95 was dropped by this Tribunal on being satisfied that they had complied with the Judgment and Order dt. 15.6.1994.

4. We have heard the applicant who is present in person and Shri R.A.Desai, Counsel for the Respondents.

5. In O.A. No.457/91, this Tribunal had directed the Respondents to give effect to higher scale of Rs.1400-2600 w.e.f. 1.8.1984 instead of 18.12.1986 and the Respondents were directed to work out the entitlements within three months from the date of receipt of the copy of the order and to make the payment within that period.

6. By the order dt. 15.6.1994 passed by this Tribunal in O.A. No.457/91, the applicant was placed on promotion to the next higher scale of Rs.1400-2600 w.e.f. 1.8.1984 instead of 18.12.1986. The date of promotion to the next higher grade of the applicant i.e. 1.8.1984 happened to fall prior to the implementation of IVth Pay Commission Report i.e. 1.1.1986. The pay scale of Rs.330-560 became 1200-2040 and the pay scale of Rs.425-800 became Rs.1400-2600 under the IVth Pay Commission Report. The IVth Pay Commission Report has been given effect from 1.1.1986. The reference of pay scale of Rs.1400-2600 corresponds with earlier scale of pay of Rs.425-800. Instead of   
*W* pre-revised scale of Rs.330-560, the applicant was to be given

pre-revised scale of Rs.425-800 w.e.f. 1.8.1984 till the implementation of IVth Pay Commission. The applicant was rightly placed in the next higher scale of Rs.425-800 w.e.f. 1.8.1984. The scale of Rs.425-800 became Rs.1400-2600 from 1.1.1996. The applicant was placed in the revised pay scale of Rs.1400-2600 w.e.f. 1.1.1986. It appears from the annexures that her pay on promotion to the next higher grade was fixed at Rs.470/- in the pre-revised scale of Rs.425-800 w.e.f. 1.8.1984 and was again re-fixed at Rs.1520/- in the scale of Rs.1400-2600 w.e.f. 1.8.1984. The respondents have rightly given the pay scale of Rs.1400-2600 w.e.f. 1.1.1986. The scale of Rs.1400-2600 came into effect w.e.f. 1.1.1996 in terms of IVth Pay Commission recommendation. It was not at all in existence prior to 1.1.1986. As the respondents have implemented the order of this Tribunal, the Contempt Proceedings No.1/1995 was dropped by this Tribunal by order dt. 9.4.1997.

7. The applicant placed reliance on the Judgment of the Hon'ble Supreme Court in the case of Shyam Babu Verma & Ors. Vs. Union of India & Ors. {1994 (2) A.I.S.L.J. SC 99} for taking steps to recover the excess amount paid to her.

8. The Respondents have placed reliance on the order in O.A. No.206/2003 in the case of Shri Ramchandra Kondi Khot Vs. UOI & Ors. decided by the Mumbai Bench of the Tribunal on 15.7.2003.

9. It be remembered here that the pay of the applicant was refixed by the Respondents, in pursuance of the order dt. 15.6.1994 in O.A. No.457/1991 and while doing so, they found that an excess payment to the tune of Rs.4018/- was made and thus they initiated the recovery of the said amount in instalments.

This exercise has been done in pursuance of the order of the Tribunal which has become final between the parties. The observation in Shyam Babu Verma's case (supra) will not be helpful to the applicant in the present case as the order dt. 15.6.1994 has become final between the parties. The O.A. deserves to be dismissed. The O.A. is dismissed with no orders as to costs.

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(S.P. ARYA)  
MEMBER (A)

W.W.W.W.W  
(S.G. DESHMUKH)  
MEMBER (J)

B.