

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 281/90

199

T.A. NO: -----

DATE OF DECISION 4-2-1992

Vishwanath Shankar Lele

Petitioner

Applicant in person

Advocate for the Petitioners

Versus

Union of India and one another

Respondent

Mr.A.I.Bhatkar for Mr.M.I.Sethna

Advocate for the Respondent(s)

CORAM:

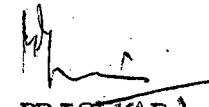
The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

mbm*

MD


(M.Y.PRIOLKAR)

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.281/90

Vishwanath Shankar Lele,
1143, Sadashiv Peth,
L.B.Bhopatkar Road,
Near Perugate,
Pune - 411 030.

.. Applicant

vs.

1. Union of India
through
Secretary
Ministry of Water Resources,
Shram Shakti Bhavan,
New Delhi - 110 001.

2. The Director,
Central Water And Power
Research Station, (CWPRS)
Khadakwasla (South),
Pune 411 024.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Applicant in person.
2. Mr.A.I.Bhatkar
for Mr.M.I.Sethna
Counsel for the
respondents.

JUDGMENT:
Per M.Y.Priolkar, Member(A) ¶

Date: 4.2.1992

The grievance of the applicant in this case ^{is} that he is being deprived of the benefit of pay fixation under FR 22 C on his promotion from the post of Computer 'A' to that of Research Assistant (Maths) on 22-1-1974 at the Central Water and Power Research Station, Pune. Initially, the applicant's pay was fixed under FR 22C on this promotion by order dated 22-7-1977 but subsequently, in view of the instructions dated 24-4-1979 issued by the Central Water Commission, New Delhi, the applicant's pay was re-fixed under FR 22(a)(ii) by order dated 11-12-1980, and the resultant excess payment was also ordered to be recovered from the applicant.

2. Under the rules relating to pay fixation, FR 22C, will be attracted only if the post to which an official is promoted, carries duties and responsibilities of greater importance than those attaching to the post already held by him. Benefit of FR 22C is, however, prohibited if both the posts carry identical time scales. As the pay scales for Computer 'A' and Research Assistant are identical, the respondents have refused to grant the benefit of FR 22 C to the applicant. The Principal Bench of the Tribunal however, in an identical case of B.D.Verma v. Union of India, (1988(2)SLJ 581) has held in its judgment dated 27-7-1987, that there was no rationale behind fixing of identical time scales for these two posts when indisputably the post of Research Officer carries the duties of higher responsibility and directed that the salary of the petitioner in that case should be refixed under FR 22 C rather than FR 22(a)(ii). We are in respectful agreement with this judgment. This judgment has also become final and binding as the department did not prefer any appeal. The applicant's case is exactly similar to that of Shri B.D.Verma and both are under the same Administrative Ministry i.e. Ministry of Water Resources.

3. The only ground on which the learned counsel for the respondents opposed this application was that the applicant's grievance relates to fixation of his pay on promotion as Research Assistant in the year 1974 and the Tribunal does not, therefore, have jurisdiction to entertain this application, the cause of action having arisen more than three years prior to the coming into force of the Administrative Tribunals Act, 1985.

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It is also stated in the written reply filed by the respondents that in the case of Prahlad Singh v. Union of India (1989(2)SCC 683) the Supreme Court has referred to a larger Bench the issue of formulating appropriate guidelines indicating when directions rendered by the Court in one particular case can be regarded as operative in other cases, and therefore, unless a judgment directs that the decision ^{who} is to be given effect for others, too, ~~also~~ were not parties, it is open to the Department not to implement the same in respect of those who were not parties to the case.

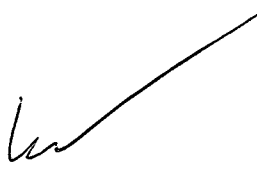
4. Regarding the challenge on ground of limitation, the applicant has brought to our notice the judgment of the Bangalore Bench of this Tribunal dated 23-12-1988 in the case of T.K.Pandarish and others v. Regional Director, ESIC, Bangalore and others. In that case, the pay was fixed in 1980 but the application before the Tribunal was filed in 1988 challenging correctness of the pay fixation. The Tribunal held in that case that the application was well in time as the department was having internal correspondence to re-fix pay which gave a glimmer of hope of relief to the applicant. Further, the Tribunal has observed in that judgment that one similarly placed filed petition which was decided in 1987 and the applicants were awaiting its result and only when the respondents did not give them similar relief, they had filed that application.

5. In the instant case before us, the pay fixation challenged is of the year 1979, the similar case was of one Shri B.D.Verma, cited above,

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which was decided on 27-7-1987, the applicant's representation is dated 19-12-1988 whereas the present application has been filed on 20-4-1990 after Ministry's rejection letter dtd. 17-7-1989. It is not necessary to make too much fetish about technicalities. Instead of deciding the application on the ground of limitation, it will be adequate in our view, if only the monetary benefits are restricted to a period beginning from three years anterior to the filing of the application, as we have done in a number of other cases. We direct, accordingly, that the benefit of the judgment of the Principal Bench in the case of B.D.Verma v. Union of India (1988(2)SLJ 581) be extended to the applicant but the actual payment of arrears of pay and allowances as also of pensionary benefits consequent on such refixation of pay shall be made only for the period commencing from 1-4-1987, that is, with effect from a date prior to three years from the date of filing of the application. There is no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD