

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 038.

Dated: 23 MAR 1995

APPLICATION NO. 877 of 1994 and 892 of 1994.

APPLICANTS: Sri.K.Ramesh and P.S.Srikanth,

v/s.

RESPONDENTS: The Deputy Secretary, Deptt. of Expenditure (C),
M/o. Finance, New Delhi and others.

To

1. Sri.H.S.Ananthapadmanabha, Advocate,
No.108, NHCS Layout, Third Stage,
~~Third Stage~~ Fourth Block, Basaveshwaranagar,
Bangalore-560 079.
2. Sri.G,Shanthappa, Additional Central Govt.
Standing Counsel, High Court Building,
Bangalore-1.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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Please find enclosed herewith a copy of the Order/
Stay Order/Interim Order, passed by this Tribunal in the above
mentioned application(s) on 14-03-1995.

Issued on
23/03/95

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to

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. No.877 & 892/94

TUESDAY THIS THE FOURTEENTH DAY OF MARCH 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

1. K. Ramesh,
Aged 34 years,
S/o Sri A.S. Krishnaprasad,
Data Entry Operator,
PAO's Office, Customs &
Central Excise, Queen's Road,
P.B. No.5400,
Bangalore-560 001.

2. P.S. Srikanth,
Aged 33 years,
S/o Sri P.S. Satyaraja,
Data Entry Operator,
PAO's Office,
Customs & Central Excise,
Queen's Road,
P.B.No.5400,
Bangalore-560 001.

... Applicants

[By Advocate Shri H.S. Ananthapadmanabha]

v.

1. Deputy Secretary,
Government of India,
Ministry of Finance,
Department of Expenditure[IC],
North Block,
New Delhi - 110 001.

2. Controller General of Accounts,
Lok Nayak Bhavan,
9th Floor,
New Delhi-110 002.

3. Principal Chief Controller
of Accounts,
Customs & Central Excise,
AGCR Building, I Floor,
New Delhi - 110 002.

4. Chief Controller of Accounts,
Customs & Central Excise,
AGCR Building, I Floor,
New Delhi - 110 002.



5. Collector,
Customs & Central Excise,
Queen's Road,
P.B. No.5400,
Bangalore-560 001.

6. Addl./Dy.Collector [P&V],
Customs & Central Excise,
Queen's Road,
P.B. No.5400,
Bangalore-560 001.

... Respondents

[By Advocate Shri G. Shanthappa, Addl. Standing
Counsel for Central Govt.]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

1. The applicants are aggrieved by the denial of revision of pay with effect from 1.1.1986. The facts are as follows:

2. The applicants were initially appointed as Key Punch Operators with effect 1.9.1984 and 29.8.1984 in the pre-revised scale of Rs.260-400 with special pay of Rs.20. The pay scale of Rs.260-400 was replaced by the pay scale of Rs.950-1500 with effect from 1.1.1986 as per the recommendation of 4th Pay Commission. The special pay was also doubled to Rs.40. The Pay Commission also suggested in para 11.45 of its report that as a long term policy it was desirable to develop a cadre of experienced employees trained in Electronic Data Processing ['EDP' for short] and other related areas of work. The Pay Commission, therefore, desired that the Department of Electronics should examine the matter and suggest reorganisation

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of existing posts and prescribe uniform pay scales and designations in consultation with the Department of Personnel and Training. Till then the pay scales and special pay recommended in Chapter 8 and 24 of the report were to be applied. Based on these recommendations, the Department of Electronics set up an Expert Committee which submitted its report in June 1987. The Government after examining the various recommendations issued orders for revised pay structure and designations vide OM dated 11.9.1989 as in Annexure A-4. This OM was modified by other OM dated 12.1.1990 as in Annexure A-5. As per these two OMs a uniform policy applicable to all Central Government offices regarding EDP posts and their pay scales was laid down. The applicants were accordingly granted the pay scale of Rs.1150-1500 with effect from 11.9.1989 and their existing posts were redesignated as Data Entry Operators['DEO' for short] Grade A from the said date. Aggrieved by the said effective date and also regarding the other aspects the applicants made representations dated 27.7.1993 as in Annexure A-6. Their grievances were in respect of confirmation in the grade of DEP, revision of pay scales from 1.1.1986, promotion avenues to the higher cadres and scope for taking up JAO [Civil] examination. The department viz., Respondent ['R' for short] No.3. Principal Chief Controller of Accounts, Central Board of Excise and Customs by his letter dated 18.8.1993 as in Annexure A-1 informed the applicants covering only two aspects



of the representations viz., confirmation in the grade of DEO and scope for taking JAO examination. The said reply did not make any reference to the other two aspects of the representation particularly to the revision of pay scales from 1.1.1986. Aggrieved by the same the applicants placing reliance on the decisions of Hyderabad, Cuttack and Lucknow Benches of this Tribunal, contended that there should be not only parity in the pay scales but also uniformity in the effective date which should be from 1.1.1986. Accordingly the applicants claim for revised scale of pay of Rs.1150-1500 from 1.1.1986 and consequential directions.

3. The respondents oppose the applications on the ground of delay and seek to justify the effective date of the revised pay on the basis of decision of Supreme Court in UNION OF INDIA V. SECRETARY, MADRAS CIVIL AUDIT AND ACCOUNTS ASSOCIATION reported in [1992] 20 ATC 176.

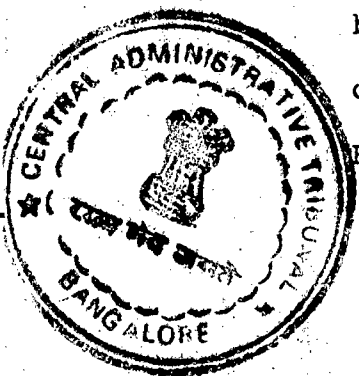
4. We have heard Shri H.S. Ananthapadmanabha, learned counsel for the applicants and Shri G.Shanthappa, learned Standing Counsel for the respondents.

5. According to the respondents the order in Annexure A-4 having been issued on 11.9.1989 and subsequent OM dated 12.1.1990 indicating the effective date as 11.9.1989 is sought to be challenged in this application, it is not within time inasmuch as the application was filed only on 21.4.1994. This contention of the

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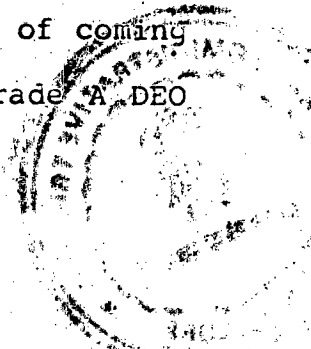
respondents is not sustainable inasmuch as the representation made by the applicants during the year 1993 was replied by respondents only in their letter dated 18.8.1993 as in Annexure A-1 even where there is no specific denial of the claim put forth by the applicants regarding effective date of coming into force of revised pay. However, only by implication the claim will have to be presumed to have been rejected. If this aspect is taken into consideration the application will be within time. Even otherwise as rightly contended by Shri Ananthapadmanabha, the question of pay is a recurring cause of action and the applicants are entitled to agitate their grievance at any time but the relief to be granted in case of success may have to be restricted to a certain period as per law. Viewed from any angle the contention of the respondents regarding delay cannot be accepted as correct.

6. The applicants seek to support their claim for advancing the effective date for revised pay scale from 1.1.1986 from 11.9.1989 on the basis of the decisions of the Hyderabad, Cuttack and Lucknow Benches of this Tribunal. In OA No. 957/90, Hyderabad Bench of this Tribunal had rendered decision relating to the applicants therein who belonged to Census department. Similar is the case in the decision rendered by Cuttack Bench of this Tribunal in OA No.249/91 decided on 6.4.1992 [Annexure A-7] as also in Lucknow Bench rendered in OA No.389/91. In all these decisions



the applicants were in the pre-revised pay scale of Rs.330-560 which was subsequently equated to DEO Grade B of the pay scale of Rs.1300-2200 as in OM dated 11.9.1989. For granting relief in these decisions, reliance was placed on similar employees working as EDP staff working in Railway Administration in so far as that pay scale were concerned who were given pay scale of Grade B ie., Rs.1350-2200 which was effective from 1.1.1986 and not from 11.9.1989. Observing that there should be equal pay for equal work and having regard to the effective date in respect of railway employees, it was directed that the applicants who were similarly placed should be granted same relief from 1.1.1986 had allowed the claim. On the basis of these decisions, it is the contention of Shri Ananthapadmanabha that though the applicants are equated to Grade A in the pay scale of Rs.1150-1500, the effective date ought to be from 1.1.1986 and not 11.9.1989 and there should be parity in such effective date. He also contended that the Special leave petition filed by the respondents in the above stated decisions rendered by the three Benches of this Tribunal was dismissed by the Supreme Court in SIP No.16533-/93 and those decisions thus stand confirmed. Accordingly he has contended further that there should not be any discrimination in respect of date of coming into force of the revised pay as between Grade A DEO and Grade B DEO.

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7. Controverting the above contentions the learned Standing Counsel drew support from the decision of Supreme Court in UNION OF INDIA V. SECRETARY, MADRAS CIVIL AUDIT AND ACCOUNTS ASSOCIATION and contended that the Pay Commission had made two types of recommendations - [i] relating to revision of pay scales and [ii] other recommendations and that where revision of pay scales were recommended the effective date was 1.1.1986 and regarding the other recommendations which were required to be considered after the expert committee's report, the effective date could be different and the same was upheld by the Supreme Court in the above stated decision. As rightly contended by Shri Shanthappa, the Government was required to appoint an Expert committee and to reorganise the existing posts and after considering the report, the revised pay structure was given effect to from 11.9.1989 and the same is justified and not open to challenge by the applicants. Discussing the aspect of the bifurcation of the Department of Audit and Accounts and considering the exercise that was required to be gone into by the Government, the Supreme Court observed thus in UNION OF INDIA V. SECRETARY, MADRAS CIVIL AUDIT AND ACCOUNTS ASSOCIATION:

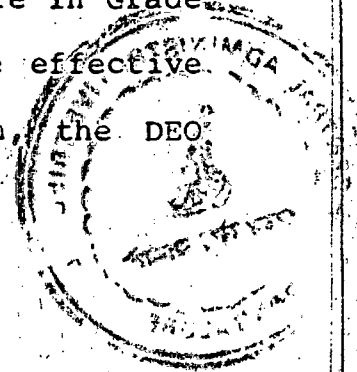
"Before the bifurcation of the IA & AD all officers belonged to one department and as such all those officers of both the wings who were entitled to the scales of pay from January 1, 1986, have been granted the same with effect from that date. But with reference to the second part of the recommendations categories of posts



in the functional grades in the Accounts Wing had to be identified and created. The respondents belonging to the Accounts Wing who got that benefit of being upgraded now cannot claim that they must also be given same scales like others in respect of whom the recommendations of the Pay Commission were given effect to with effect from January 1, 1986. There is a clear distinction between the two categories. Therefore, the submission that giving two different dates of implementation of the recommendations in respect of these two categories of personnel of the Accounts Wing and the Audit Wing offends Articles 14 and 16, is liable to be rejected." [Head Note]

Because the second part of the recommendation relating to categories of posts in functional grade in Accounts Wing had to be identified and created, the benefit of such upgradation could not have been claimed at the same time is the observation of the Supreme Court. Because of this reason, it was observed that there was no discrimination in indicating different dates of effect of the revised pay scale which is justified and did not violate Articles 14 and 16 of the Constitution.

8. There is no dispute that the applicants who had approached the Tribunal at Hyderabad, Cuttack and Lucknow belonged to Census Department and their pay scale was Rs.330-560 which was revised to Rs.1350-2200. For our query Shri Ananthapadmanabha has submitted that there was no Grade A of the pay scale of Rs.1150--1500 in Railways and the DEO in Railways were in Grade B ie., Rs.1350-2200 in respect of whom the effective date is 1.1.1986. Because of this reason, the DEO



of the Census Department were also given the same pay scales as Rs.1350-2200 in Grade B were directed to be given from 1.1.1986 holding that the effective date earlier stipulated as 11.8.1989 was discriminatory and the same was upheld by the Supreme Court. Of course the Hyderabad, Cuttack and Lucknow Benches of this Tribunal did refer to the decision in UNION OF INDIA V. SECRETARY, MADRAS CIVIL AUDIT AND ACCOUNTS ASSOCIATION but had made a distinction. The decision rendered by the Benches of Hyderabad, Cuttack and Lucknow are based mainly on the effective date indicated in respect of Railway employees as 1.1.1986 which was equivalent to Rs.1350-2200, the applicants therein were also given the same benefit. The applicants herein who were in the pay scale of Rs.260-400 and who were subsequently equated to Rs.1150-1500 because of the rationalisation of the pay scales after the report of the Expert Committee effective from 11.9.1989 they cannot seek any support from the decisions on which the learned counsel for the applicants has relied upon. The Supreme Court has held conferment of benefit relating to the second part of recommendation from a later date is not violative of Articles 14 and 16 or the principles of equal pay for equal work. The effective date came to be fixed as 11.9.1989 because of the rationalisation of pay scales and, therefore, it was given effect to from that date only and the same has not resulted in causing any discrimination to the applicants.

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9. In view of what is discussed above, there is no merit in the application and, therefore, we hereby dismiss the same. No costs.

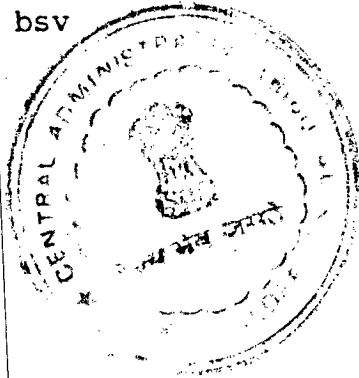
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MEMBER [J]

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MEMBER [A]

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[Signature]
23/3/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore