

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH. CAMP-NAGPUR.

ORIGINAL APPLICATION NO.: 886/93.

Date of Decision : 27.3.97

Vasant Jageswar Ingewar & 10 Others,

Petitioners.

Shri P. V. Marpakwar,

Advocate for the
Petitioners.

VERSUS

Union Of India & Others,

Respondents.

Shri R. S. Sunderam,

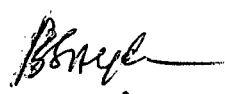
Advocate for the
Respondents.

CORAM :

HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

- (i) To be referred to the Reporter or not ? √
- (ii) Whether it needs to be circulated to
other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

CAMP : NAGPUR.

ORIGINAL APPLICATION NO.: 886/93.

Dated, this 27th, the Thursday day of March, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

1. Vasant Jageswar Ingewar,
C/o. V.H. Sayare,
Futala Amravati Road,
Near Primary School,
Nagpur.
2. Vaijinath Ramrao Khedkar,
C/o. Sai Nagar, Plot No. 38,
Hingna Road, M.I.D.C.,
Nagpur.
3. Pilaji Bhiwaji Gajbhiye,
C/o. Shri Manikrao Patil,
Plot No. 16, Lumbini
Nagar (Gopal Nagar),
Nagpur.
4. Vijay Hari Sayare,
C/o. Futala,
Amravati Road,
Near Primary School,
Nagpur.
5. Damodar Manohar Somkumar,
C/o W.N. Borghate,
73, Patel Nagar,
Gorewada Road,
Nagpur.
6. Janardhan Shivnath Sakhare,
C/. Yadav Nagar,
489, Binaki Layout,
Nagpur.
7. Satyendrakumar Baljorsing
Rana,
C/o. Corporation Colony,
North Ambazari Road,
Nagpur.
8. Rashid M. Shaikh,
C/o. Habibkhan,
Behind Mandir Masjid,
Nagpur.
9. Dhananjay Suryanath Tiwari,
C/o. Block No. III,
Qtr. No. 20, C.P.W.D.,
Katol Road, Nagpur.

... Applicants

10. Sheshrao Baburao Dhote,
C/o. Shri Tejsingh Chowdhary,
Type-II, qtr. No. 1,
T.V. Tower Colony,
Seminary Hills,
Nagpur.

11. Sheshrao Champatrao Samarth,
B-7-106, M.I.G. 4I,
Thidco Colony, Nara Road,
Nagpur.

... Applicants

(By Advocate Shri P.C. Marpakwar)

VERSUS

1. The Chief Soil Survey Officer,
All India Soil & Land Use
Survey, I.A.R.I. Building,
New Delhi. - 110 012.

2. The Secretary to the Government
of India, Ministry of
Agriculture, Department of
Agriculture and Corporation,
New Delhi - 110 001.

3. The Soil Survey Officer,
All India Soil & Land Use
Survey, Katol Road,
C.P.W.D. Colony,
West High Court Road,
Nagpur - 13.

... Respondents.

(By Advocate Shri R.S. Sunderam)

: O R D E R :

X PER.: SHRI B. S. HEGDE, MEMBER (J) X

Heard Shri P.C. Marpakwar for the applicant
and Shri R.S. Sunderam for the respondents and perused
the records.

2. In this O.A., the applicants seek suitable
direction to the respondents to place them in the pay
scale of Rs. 330-560 (pre-revised) and 1200- 2040 (Revised)
from the date of their appointment as per the Government
circular dated 04.09.1975.

3. The applicants were initially appointed as
Field Assistants (various dates of appointment given in
para 3 of the O.A.) in the respondents department, though

the counsel for the applicant has not ~~been able to annex~~ the appointment letters. The contention of the learned counsel for the applicant is that the applicants were given the pay scale of Rs. 260-430 at the time of their appointment, whereas, those who have been appointed temporarily to the post of Field Assistant were given the pay scale of Rs. 330-560, as placed as Annexure A-1, which reads as follows :-

"I am directed to convey the sanction of the President to the creation with immediate effect, of the temporary posts as per details in the Appendix, in connection with the expansion of the All India Soil & Land Use Survey Organisation during the 5th Five year plan, upto the 29th February, 1976 in the first instance."

The pay of the temporary Field Assistants as per appendix to letter dated 04.09.1975 (Annexure A-1) is shown as Rs. 330-560. The learned counsel for the applicants draws our attention to the letter dated 01.03.1993 (Annexure-2) wherein, pursuant to the decision of the Bangalore Bench, the respondents department had taken a decision for the upward revision of pay scale of Field Assistants in All India Soil & Land Use Survey Organisation from Rs. 975-1540 to Rs. 1200-2040/- w.e.f. 01.01.1986 on notional basis and from 01.01.1990 on actual basis. Thus, the Field Assistants are entitled for the drawal of arrears from 01.01.1990. Therefore, the counsel for the applicant raised a query whether it is permissible for the respondents department to appoint them in a lower pay scale. His contention is that, it is not permissible to the respondents department for appointment in the lower pay scale. The scale is applicable to a particular post and it is not permissible to the respondents to give a lower pay scale when the

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scale itself is given for a particular post.

4. As against this, the learned counsel for the respondents, Shri Sunderam, vehemently opposed the plea of the Counsel for the applicant stating that even on temporary post, the scale prescribed at page 14 of the O.A. is only a typographical error and infact, throughout, the Field Assistants have been paid in the scale of Rs. 260-430 and it is not the contention of the applicants that some persons have been paid more than the applicants. The respondents have taken a preliminary objection that the application itself is not maintainable as it is barred by limitation. The cause of action arose sometime in the year 1975 and the petition is filed in the year 1993, after a lapse of 18 years. Further, the judgement and orders of the court in other cases do not give cause of action. The cause of action has to be reckoned from the actual date. In the instant case, the actual date is in the year 1975, therefore, it is clearly barred by time and on this ground, the petition requires to be dismissed. It is not the case that pursuant to the letter dated 04.09.1975, the respective applicants have made any representation to the competent authority, the applicants have straight away approached the Tribunal, which is not ~~permissible~~ under Section 21 of the Administrative Tribunals Act. It is true that the applicants have been duly paid the pay scale of Rs. 260-430 which has been duly accepted as the pay scale offered to them and continued to work on accepting the same pay scales and the revised pay scales as per IV Pay Commission. The creation of posts of Field Assistant in A.I.S.L.U.S. vide letter dated September 04, 1975, has been duly considered by the Bangalore Bench of the Tribunal and rendered its

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judgement vide order dated 13.02.1992 with the following observations :

"that structuring of posts in a Government Department is entirely a matter within the competence of the administrative authorities and not something with which the Tribunal should interfere unless some legal infirmity is made out. It is also true that IVth Pay Commission have recommended higher replacement scales wherever ^{and} considered it necessary and the other posts have been given only equivalent replacement scales."

The Tribunal also directed that the Government of India should appoint a Committee consisting of one or more experts to visit a few farms of all the four departments under the Ministry of Agriculture and assess the nature of field work executed by the Field Assistants in AISLUS and submit a report within a period of 3 months. The Government of India should take a final decision regarding grant of pay scale of Rs. 1200-2040/- w.e.f. 01.01.1986 notionally but, however, the payment of arrears, if any, shall be made from 01.01.1990 only. As per the Court's direction, the Committee was appointed and the recommendations have been implemented in the lines of the directions of the Court order. Accordingly, on the basis of Committee Report, enhancement of pay scale from 975-1540 to Rs. 1200-2040 was effected with effect from 01.01.1986 on notional basis. The equivalent scale of Rs. 260-430 is Rs. 975-1540 (revised as per IVth Pay Commission Report). Therefore, the respondents submit that the fixing of the pay scale of the Field Assistants at Rs. 330-560 from 1975 is not relevant, since neither the scale was implemented ^{nor any} offer of appointments was made.

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5. The learned counsel for the applicant Shri Marpakwar, urged that if the Tribunal had directed the respondents to appoint a Committee to look into the matter and to submit its report, neither the judgement of the Tribunal nor the recommendations of the Committee has been furnished by the respondents department for perusal, therefore, having given the revised pay scale w.e.f. 01.01.1986, it is not open to the Tribunal to restrict the payment of arrears w.e.f. 01.01.1990. It is not known what is the Committee's recommendations on this issue. Accordingly, the Counsel for the respondents has been directed to furnish a copy of the Tribunal's judgement for our perusal. Pursuant to the direct^{ion} of the Tribunal, the learned counsel for the respondents furnished a copy of the decision rendered by the Bangalore Bench in O.A. Nos. 956 to 959/90 K. Guruswamy & 3 Others V/s. Union Of India. We have perused the judgement of the Tribunal. In that cases, the applicants' appointments were made through the Staff Selection Commission and they were given the scale of Rs. 260-430. It was the case of the applicants that the post of Fieldmen is lower in rank compared to the post of field assistants and w.e.f. 01.01.1986 all the posts of fieldmen in scales Rs. 260-350, 260-400 and 260-430 have been given the revised pay scale of Rs. 1200-2040 consequent on the acceptance of the recommendations of the IV Pay Commission. The Tribunal has observed that IV Pay Commission has recommended higher replacement scales wherever they considered it necessary and the other posts have been given only equivalent replacement scales. The Central Administrative Tribunal, Bangalore Bench, also ordered the Government to reconsider the case of pay scales of Field Assistants by appointing a committee, etc. The plea of the present applicants in

the above said case regarding the creation of temporary posts is on a different pay scale and the same was not considered by the Committee appointed by the Government. So far as the temporary post of Field Assistants are concerned, the department used to pay the pay scale of Rs. 260-430 and the candidates have duly accepted and reported for the duty. Even after the IV Pay Commission recommendations, they continued to pay the corresponding revised scale and not the scale recommended by the Pay Commission. It was firmly denied by the respondents that the pay scale of Rs. 330-560 has neither been implemented nor any offer of appointment made to the applicants in this case and therefore, no discrimination among any of the applicants made regarding the implementation of pay scale. The Bangalore Bench partly allowed the application by directing the applicants to make further representation to the competent authority and on receipt of the representation, directed the respondents to appoint a committee to look into the grievance of the applicants and pass a final decision regarding the grant of pay scale, etc.


6. The facts of the present case is distinguishable from the facts narrated in O.A. No. 956 to 959/90 before the Bangalore Bench. Insofar as the case before the Bangalore Bench is concerned, the applicants were appointed as Field Assistants in a regular manner through the Staff Selection Commission, whereas in the instant case, considering the volume of work, temporary posts were created for a particular period and the applicants were appointed for the said purpose and all have been given the scale of Rs. 260-430. Further, as per the Court's direction, a Committee was appointed and pursuant to the recommendations of the Committee, the respondents implemented the recommendations. As stated

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earlier, in so far as the temporary posts are concerned, the same has not been considered by the Committee appointed by the department to look into the matter and they have been paid the same pay scale as was payable to them and no discrimination in so far as the payment of scale is concerned. It is an admitted fact that the cause of action arose in the year 1975 and the applicants have filed this petition only in 1993, after a lapse of 18 years. It is also a settled principle of law that judgement and orders of the court in other cases do not give cause of action. The cause of action has to be reckoned from the actual date. The application filed by the applicant is a belated one and based on the judgement of the Bangalore Bench. Since the respondents have not made any discrimination in paying the different pay scales of the temporary employees of the Field Assistants, the question of entertaining this petition at the belated stage is not warranted. The applicants have not made any representation to the competent authority nor they were able to show the appointment letter during the course of hearing.

7. In the result, we do not see any merit in the O.A., as the application is not only barred by time but they also cannot take the advantage of the decision rendered by the Bangalore Bench, which stands on a different footing. Therefore, we are of the view that there is no merit in the O.A. and the same is dismissed with no order as to costs.


(P.P. SRIVASTAVA)
MEMBER (A).


(B. S. HEGDE)
MEMBER (J).