

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP : PANAJI.

ORIGINAL APPLICATION NO. : 1294/95.

Dated this Pranam on, the 4th day of July 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).
HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Shri N. K. Devarajan ... Applicant

Versus

Union of India & 2 Others ... Respondents.

APPEARANCE :

1. Shri B. Ranganathan,
Counsel for the applicant.
2. Shri E. Badrinarayan,
Counsel for the respondents.

: O R D E R :

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

Heard the arguments of Shri B. Ranganathan for the applicant and Shri E. Badrinarayan for the respondents and perused the pleadings.

2. In this O.A., the applicant has prayed that he should be granted the benefit of pay scale of Rs. 1640-2900 w.e.f. 02.04.1988 on which day he completed 5 years of service in the post of Junior Engineer and the pay scale of Rs. 2000-3500 from 02.04.1998 on which day he will complete 15 years of service. He also contended that since one of his colleagues Shri H.K. Rath, Junior Engineer, working in the office of the Welfare Commissioner, Labour Welfare Organisation, Bhubaneshwar Region, had been granted the said relief pursuant to the decision rendered by the Cuttack Bench of the Tribunal in O.A. No. 530/91 vide order dated 06.07.1994 wherein the Tribunal had directed the Respondents to revise the scale of the Applicant to Rs. 1640-2900 and Rs. 2000-3500 from the date on which he completed 5 years and 15 years of service respectively. He further states that the aforesaid decision of the Tribunal had been implemented by the Respondents vide their order

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dated 28.12.1994 and granted him the relief as prayed for. In this connection, the Learned Counsel for the applicant Shri Ranganathan also draws our attention to the decision (Division Bench) of the Bangalore Bench of the Tribunal vide dated 29.11.1995 wherein the Tribunal had observed that the controversy raised in this O.A. is covered by the decision of the Cuttack Bench of this Tribunal in O.A. No. 530/1991. On that basis the Bangalore Bench allowed the application and directed the respondents to grant the revised pay scale of Rs. 1640-2900 to the applicant from the date on which he had completed five years of service. Arrears on account of the resultant difference of pay scales shall be computed and disbursed to him within 90 days from the date of receipt of a copy of this order and limited to the period of one year prior to the filing of this application. Shri Ranganathan also draws our attention to the order passed by the Respondents vide dated 13.02.1996 implementing the decision of Bangalore Bench.

3. In reply, the Learned Counsel for the respondents Shri Badrinarayan, raised a preliminary objection that the O.A. filed by the applicant is barred by limitation and the representation of the applicant was rejected by the Government vide its order dated 30.12.1993 and since the applicant approached this Tribunal beyond the date of limitation as laid down under the Central Administrative Tribunal Act, this application should be rejected. Except the technical plea, so far as the factual averments are concerned, there is no dispute.

4. The applicant was appointed as Junior Engineer in the Office of the Welfare Commissioner, Iron & Manganese Ore Mines, Labour Welfare Organisation at Goa on 02.04.1983 in the pay scale of Rs. 425-700 plus usual allowances, as admissible under the Central Government

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and subject to the terms and conditions laid down in the O.M. dated 02.02.1983. His main thrust of argument is that the pay scale given to the applicant upon his appointment was the one prescribed for the post of Junior Engineer in the Central Public Works Department. No separate pay scale was prescribed for the Junior Engineers working in the Labour Welfare Organisation and the pay scale made applicable to the Junior Engineers working in the Central Public Works Department were made applicable to the Junior Engineers in Labour Welfare Organisation. The Fourth Pay Commission recommended two different pay scales ~~so~~ far as Junior Engineers working in the C.P.W.D. were concerned viz. Rs. 1400-2300 and Rs. 1640-29000. These recommendations were accepted by the Central Government. Later on, the Ministry of Urban Development in their circular dated 22.03.1991 prescribed two different pay scales of Rs. 1640-2900 and Rs. 2000-3500 for the post of Junior Engineers in Central Public Works Department, to be made applicable on Time Bound basis. The said circular provided that a Junior Engineer on rendering service of 5 years should be given the scale of pay of Rs. 1640-2900 and after completion of 15 years of service as Junior Engineer the scale of pay of Rs. 2000-3500. The contention of the applicant is that the provision of the said circular dated 22.03.1991 though made applicable to the Junior Engineers working in the Central Public Works Department were not made applicable to the applicant and other Junior Engineers working under the Labour Welfare Organisation. The applicant, therefore, contends that he is entitled to be placed in the same position so far as the pay scale is concerned as the Junior Engineers working in the C.P.W.D. and the said benefit should be extended to him. Though he made representation on 05.08.1994, no reply was given by the respondents. Therefore, he contends that whatever benefit is rendered by the Cuttack

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Bench and Bangalore Bench, the same should be extended to him because hardly 9 or 10 persons of his cadre are working in this organisation, therefore, if he is denied of such benefit, it would amount to discrimination on the part of respondents in not giving the benefit to the applicant. In this connection, the Learned Counsel for the applicant Shri Ranganathan, draws our attention to the contentions of the respondents, negativing that the plea of limitation is not applicable to the facts of this case. In this connection, he relies upon the decision of the Principal Bench, New Delhi in KAMLA DEVI V/S. UNION OF INDIA & OTHERS [(1989) 9 ATC 49]. On the basis of the decision of the Supreme Court in Madras Port Trust V/s. Hymanshu International [(1979) SLR 757] the Tribunal held that the Government and public authorities should not adopt the practice of relying upon technical pleas for defeating legitimate claims. Shri Ranganathan further contended that the Madras Bench of this Tribunal in P.K.RANGACHARI V/S. UNION OF INDIA [(1993) 24 ATC 834] held that the even decision in a case filed by a single government servant, pertains to a question of principle relating to the conditions of service, it applies automatically to all those who are in the same situation, even though it is couched in the form of general principle. That is the effect of status of the Tribunal partakes the nature of a rule and it gets added to the set of existing rules or modifies on of them. Therefore, he contends that the decision rendered by the Cuttack Bench and Bangalore Bench squarely applies to the facts of this case and thus the benefit given to them should also be extended to the applicant.

5. As stated earlier, regarding factual averments there is no dispute that the applicant is similarly situated to that of the applicant in the decision of

Cuttack Bench and Bangalore Bench. We further note that decision of Bangalore Bench being of Division Bench is binding on us. In that view of the matter, the respondents are not justified in denying the benefit to the applicant. Accordingly, we hereby direct the respondents to extend the benefit of pay scale of Rs. 1640-2900 w.e.f. 02.04.1988, the day on which the applicant completed five years of service in the post of Junior Engineer and the pay scale of Rs. 2000-3500 w.e.f. 02.04.1998, the day on which he will complete 15 years of service in the post of Junior Engineer, the similar relief which was allowed to his colleagues Shri H.K. Rath and Shri G. Pampanagouda. The arrears of account of the resultant difference of pay scales shall be computed and disbursed to him within a period of three months from the date of receipt of a copy of this order.

6. The O.A. is disposed of with the above directions. No order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)

MEMBER (A).

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

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C.P. No. 87/96
Handed over order
on
n
13/11

Per Tribunal
Applied for is by
Advocate / Respondent by
Counsel for want
The matter adjourned to
for orders on C.P. 1st Jan
Date: 15/11/96
Mr. B. Ranganathan
A. for
2/12/96
[Dy. Registrar]

Dated: 2.12.96 (61)

Heard Shri B. Ranganathan,
counsel for the applicant.

Applicant has filed C.P. 87/96.
Issue notice to the respondents
to file reply to C.P. returnable on
14.12.96.

(P.P. Shivaswamy)
M(A.)

(B.S. Hegde)
M(S)

MS.

C.P. 87/96
Notices issued to
REPLIANTS / respondents on
9/12/96
yesterday

Date: 23.12.96 [47]
MP 892/96

M.P. No. 892/96
for extension of
time fixed on
23.12.96
n
16/12

Mr. B. Ranganathan
for the applicant. Mr. S. S.
Karkera for the respondents.
Respondents have filed MP
892/96 for extension of
time to implement the
order.