

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY (21)

OA.NO.565/93, OA.NO.57/94, OA.NO.60/94 & OA.NO.106/95

1. Narayan Keshavrao Pande
2. Hukumchand Deepchand Jain
3. Mukund K. Shingaram
4. Prabhakar Pandit Vishi

Applicants

v/s.

Union of India & Ors.

Respondents

CORAM: Hon'ble Member (A) Shri P.P.Srivastava

Appearance

1. Shri S.P.Saxena
2. None
3. Shri S.P.Saxena
4. Shri Y.R.Singh

Advocates for the Applicants

Shri S.S.Karkera  
for Shri P.M.Pradhan  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 25.1.1996

(PER: P.P.Srivastava, Member (A)

All the matters have similar point of law to be decided. The facts of the cases are nearly same. In all these OAs. the claim of the applicants is that they are entitled to stepping up of their pay on par with that of their junior, i.e. Respondent No. 3 Shri S.G.Tiwarkheda. For the sake of convenience I will deal with the facts of the case in N.K.Pande in OA.NO. 565/93.

(S)

2. Shri Pande was promoted to the cadre of Inspector of RMS on 2.5.1973. He was promoted to the post of Assistant Superintendent on 2.5.1980 and was fixed at Rs.550/-. As far as Respondent No. 3, Shri Tiwarkhede is concerned, he was promoted to the cadre of Inspector on 23.7.1975. He was promoted to the post of Assistant Superintendent on 6.12.1982 and his pay was fixed at Rs.675/-. The counsel for the respondents has clarified that since Shri Tiwarkhede has worked on officiating basis in both the cadres prior to his regular posting as Assistant Superintendent, his period of officiation was taken into consideration for the purpose of granting increment and therefore his pay got fixed at Rs.675/- on 6.12.1982. The pay of the applicant on 1.12.1982 was Rs.625/- and the main cause of grievance of the applicant is that although he is senior and was promoted as Assistant Superintendent before Respondent No. 3, Shri Tiwarkhede, even then he is drawing less pay than the Respondent No.3.

3. A similar matter came to be decided of this Tribunal in OA.NO. 373/86, D.L.Dighe & Ors. vs. The Director General Posts, New Delhi & Ors. In that OA. also the applicants had claimed fixation of pay on similar grounds against the Respondent No. 3 Shri Tiwarkhede and were granted relief. The present applications are squarely covered by the decision given in the above O.A. i.e. 373/86 and the applicants will be entitled to stepping up of pay with reference to Respondent No. 3 Shri Tiwarkhede.

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4. The next question which has been raised is that of limitation. It is a fact that the applicant's grievance arose in 1982 and he should have approached the Tribunal at the appropriate time when he did not get the relief at that time. However, in view of the judgement of the Supreme Court in M.R.Gupta vs. Union of India & Ors. 1995 (5) SCC 628, it is quite clear that the limitation would apply not on fixation of pay which is a continued cause of action if there is a wrong fixation, but only on amount of arrears of pay. I am, therefore, of the view that this is a continuing cause of action because the applicant is aggrieved by wrong fixation and has been getting less pay than Respondent No. 3 although he is senior to Respondent No. 3 and therefore he is entitled to fixation of pay from the date the anomaly has arisen. The fixation of pay would be determined as per rules which is on notional basis from the date the anomaly has arisen. However, the applicant will be entitled to arrears as a result of his fixation from the date one year before the date of filing the OA. Since the OA. is filed on 8.6.1993, he will be entitled to arrears from 8.6.1992.

5. All the OAs. are, therefore, disposed of as per the following directions. The claim of the fixation should be decided in terms of rules of stepping up of pay from the dates the anomaly has arisen in each case and the fixation should be on notional basis as per the rules. However, the applicants will be entitled to

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arrears as a result of their fixation from the date one year prior the date of filing the OAs. which in the case of Pande in OA.No.565/93 as ~~all~~ 8.6.1993, in case of Jain in OA.No. 57/94 as ~~all~~ 16.12.1993, in case of Shingaram in OA.No. 60/94 ~~as~~ 10.1.1994 and in case of Vishi in OA.No. 106/95 ~~as~~ 27.7.1994. All the payments due as a result of these orders should be paid to the applicants within a period of six months from the date of receipt of a copy of this order. There would be no order as to the costs.

(P.P.SRIVASTAVA)  
MEMBER (A)

mrj.

M.P. No. 611/96  
for extension  
of Time limit  
on 22-8-96

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22-8-96 (27)

None for the applicant. Shri S.S. Karkera for Shri P.M. Pradhan for the Respondents.

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The Respondents have filed M.P. 611/96 for extension of time by three months from the date of passing of the order for complying with the judgement of this Tribunal dated 25-1-1996. This M.P. has been filed on 12-8-1996. The counsel for the Respondents has annexed a copy of the order dated 25-7-1996 of the Department of ~~the~~ Post, New Delhi regarding implementation of the said judgement. In the circumstances, the M.P. 611/96 has become infructuous and stands disposed of. However, in view of the Dept. of Post letter dt. 25-7-96, the Respondents are granted time upto Oct. 31, 1996 to comply with the orders.

  
(B.S. Hegde)  
Member (J)

ssp.

12-8-96  
Order/Judgement despatched  
to Applicant/Respondent (s)  
11-9-96

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