

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 639/95 /199

Date of Decision: 26-09-96

1. Ananda Limbaji Gawade
2. Sudhakar Somya Bapu Gite

Petitioner/s

Shri K.R.Pillay

Advocate for the
Petitioner/s

V/s.

U.O.I. & Ors.

Respondent/s

Mr.R.K.Shetty

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R.Kolhatkar, Member(A)

Hon'ble Shri

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

M.R.Kolhatkar

(M.R.KOLHATKAR)
M(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.NO:639/95

pronounced this, the 26th day of September 1996

CORAM:

HON'BLE SHRI M.R.KOLHAT KAR, MEMBER(A)

1. Ananda Limbaji Gawade,
1100, Sarpan Galli,
Bhingar,
Ahmednagar 414 002.

2. Sudhakar Somya Bapu Gite,
Hatampura,
Ahmednagar 414 001.

(By Advocate Shri K.R.Pillay) .. Applicants

-versus-

1. Union of India,
through
The Secretary,
Ministry of Defence,
New Delhi - 110 011.

2. The Scientific Advisor to
the Ministry of Defence
and Director General
Research & Development,
Ministry of Defence,
New Delhi - 110 011.

3. The Director,
Vehicle Research &
Development Estt.
P.O.:Vahannagar,
Ahmednagar 414006.

(By Advocate Shri R.K.Shetty) .. Respondents

O R D E R

(Per M.R.Kolhatkar, Member(A))

In this O.A. the applicant No.1 is working as Chargeman Gr.II with respondent No.3 and applicant No.2 was working as Chargeman Gr.II. They seek the relief of quashing the Daily Order No.56 dated 20th October, 1992 reducing the pay of the applicants in terms of letter of respondents dt. 20/25-6-91 vide Annexure 3 and 2 respectively and also the letter dt. May '95 addressed to applicant No.1 stating that

his request for implementation of the judgment of C.A.T.Bombay in O.A.412/93 cannot be considered.

2. The judgment of C.A.T. in question is a Full Bench judgment annexed at Annexure-8 delivered in O.A.412/93 on 31-3-94 in the case of Bajrang Sitaram ~~Manjale~~ vs. U.O.I. in which judgment the issue involved was that of fixation of pay of the petitioners from the cadre of Master Craftsman to the cadre of Chargeman Gr.II and the Tribunal held that the initial pay has to be fixed taking into account the ~~pay of the post of Master Craftsman~~ ^{on the basis of} held on the date of promotion and not ~~notional or~~ presumptive pay in the post of Tradesman. The Tribunal therefore ~~had~~ quashed the impugned order which appears to be the circular dt. 20/25-6-91 filed as annexure-2 in this O.A.

3. The main contention of the applicant is that the respondents are bound to implement the Full Bench judgment which resolved the difference of opinion ~~between~~ the Benches at Hyderabad and Bangalore. The respondents are bound to give the benefit of the judgment to the employees similarly situated. The stand of the respondents, that the benefit of the judgment can be given only to the employees directly involved and not others is not correct. In this connection the counsel for the applicant relies on the judgment of B.M.Gupta v. U.O.I., ATR 1992(1)CAT 313. The ratio of the judgment that was ~~the~~ benefit of judgment in the case of certain people if granted by the court is to be extended to

others similarly placed. The Tribunal had relied on the judgment of the Supreme Court in the case of *Inderpal Yadav v. U.O.I.*(1985)2 SCC 648 in which it was observed that those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated they are entitled to similar treatment, if not by anyone else, at the hands of the court.

4. The respondents have opposed the O.A. According to the respondents the Full Bench does not say that the benefit is to be extended to the similarly placed employees. The Full Bench only stated that the respondents are restrained from reducing the pay of the petitioners on the strength of the orders dt. 20/21-6-1991. It is also contended that the O.A. is hopelessly barred by time. The applicant has sought to challenge the orders of June '91 and of October '92. The Full Bench delivered its judgment on 31-3-1994. The O.A. has been filed only on 19-6-95 and an MP has been filed on 25-7-96 to condone the delay. The respondents rely on the judgment of the C.A.T. Madras Bench in the case of *All India Postal Employees' Union Class III, Tamil Nadu Circle and Others vs. U.O.I. & Ors.*(1994)28 ATC 810 in which it was laid down that it is the duty of the Tribunal to consider limitation before granting relief.

5. In my view the applicant had requested the respondents to give them the benefit of Full Bench judgment on 31-3-1995 and a negative reply was

sent on May '95 nu tje respondents and the O.A. was filed in June '95 and therefore the O.A. is not barred by time. Regarding the contentions of the respondents that the Full Bench judgment is a judgment in personem and not a judgment in rem I notice that the operative portion of the judgment had quashed the impugned orders at Annexures 17 and 18. Thus the Full Bench of the Tribunal had quashed the circular of the respondents dt. 20-6-91 regarding fixation of pay of Chargeman Gr.II on their promotion from Master Craftsman and it is the same circular in terms of which the reduction in the pay of the present applicants was also effected. I am, therefore, unable to agree that the ratio of the Full Bench judgment does not apply to the petitioners.

I also note the observation of the Supreme Court in Inderpal Yadav's case that if the petitioners are similarly situated they are entitled to similar treatment at the hands of the court if not at the hands of the Govt. I am, therefore, of the view that the ratio of Full Bench Judgment in B.S. Wanjale's case to which I was also a party applies to the petitioners as much as it applied to the petitioners in Wanjale's case.

6. The O.A. is therefore allowed and the respondents are directed not to make recovery in terms of order dt. 20-6-91 so far as the applicants are concerned and so far as the applicant No.2 is concerned the pensionary benefits shall be recomputed

and the consequential benefits should be granted to him. Action in terms of this judgment should be completed within three months of the communication of the order. There will be no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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