

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:666/95

DATE OF DECISION:

30th July 2001.

Central Staff Association of DGE&T and ors. Applicant.

Shri S.P.Inamdar.

Advocate for
Applicant.

Versus

Union of India and others

Respondents.

Shri S.S. Karkera for Shri P.M.Pradhan

Advocate for
Respondents

CORAM

Hon'ble Shri S.L. Jain, Member (J)

Hon'ble Smt. Shanta Shasrti, Member(A)

(1) To be referred to the Reporter or not? *yes*

(2) Whether it needs to be circulated to *no*
other Benches of the Tribunal?

(3) Library.

yes

S.L. Jain

(S.L.Jain)
Member(J)

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Monday the 30th day of JULY 2001

CORAM: Hon'ble Shri S.L. Jain, Member(J)

Hon'ble Smt. Shanta Shastry, Member(A)

1. Central Staff Association of
D.G.E. & T
(Non-Secretariat)
Bombay Unit Advanced Training
Institute, V.N. Purav Marg,
Sion, Bombay through
S.U. Thakur, Secretary.

2. Prabhakar Ramchandra Kelkar
3. Surajbhan H. Maqwana
4. Nathuram S. Panchal
5. Shriram Chandrakant Katkar
6. Pravin M. Bhawe
7. Ramesh Harishandra Makar

...Applicants

Applicant No. 2 to 7 working as
Workshop Attendant, Vocational
Rehabilitation Centre, A.T.I. Campus
Sion, Bombay.

By Advocate Shri S.P. Inamdar.

V/s

1. Union of India through
Director General,
Employment & Training
Shram Shakti Bhavan,
Rafiq Marg., New Delhi.

2. Director,
Employment Exchange (D.G. & T)
Ministry of Labour,
3/10, Jamnagar House,
New Delhi.

3. Senior Superintendent
Vocational Rehabilitation Centre
for Handicapped,
A.T.I. Campus, V.N. Purav Marg.
Sion, Bombay.

...Respondents.

By Advocate Shri S.S. Karkera for Shri P.M. Pradhan.

J. D. M. - ...2...

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O R D E R

{Per S.L.Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 seeking the relief to quash and set aside the impugned communication dated 13.12.1986 with a direction to the respondents to implement the recommendation of the IV th Pay Commission which was ordered to be implemented by the respondents vide order dated 17.10.1986 and to release the applicant No. 2 from the Stagnation of his pay from Rs. 1400/- with consequential benefits.

2. The applicant No.1 is recognised service Union (Association) of the employees working in Vocational Rehabilitation Centre and Shri S.U. Thakur is the Secretary of the Union. Applicant No. 2 is one of the aggrieved employees working as Workshop Attendant ~~has~~ stagnated in the so called pay scale of Rs. 950-20-1150-EB-25-1400 on 1.1.1993. The remaining applicants did not stagnated are similarly placed and working in the same department / Workshop, as Workshop Attendants. The pre-revised scale of the Workshop Attendant working in Vocational Rehabilitation Centre, Bombay, prior to IVth Pay Commission was Rs. 260-6-326-EB-8-350. The IVth Pay Commission has prescribed pay scale of Rs. 950-20-1150-EB-25-1500 to the post of Workshop Attendants which was ordered to be implemented vide order No. 11014/286 TA - II, Government of India, Ministry of Labour dated 17.10.1986. The said orders are being implemented by the respondents to the Workshop Attendants in the Advanced Training Institute, Sion Bombay and not implemented to the Workshop Attendant of Vocational Rehabilitation Centre, Sion, Bombay.

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3. The grievance of the applicants is that the impugned order dated 13.12.1986 under communication No. DGE & T. A /26011 /I/86 EP-II by Ministry of Labour, Government of India seems to have been issued under certain doubts raised by the Superintendent Vocational Rehabilitation Centre Madras. The doubts were not made known to the sub-ordinate offices at Madras. No reasons have been mentioned in the aforesaid orders of the respondents. There is arbitrariness and non application of mind by the Respondent No.1. The

aforesaid clarification is not applicable to the Workshop Attendant because in Sister Department i.e. Advance Training Institute in the same premises of the applicant's Workshop, it has not been made applicable to the persons working as Workshop Attendants in the Advance Training Institute, Sion Bombay. The Advance Training Institute and Vocational Rehabilitation Centre are the sister wings of the same Ministry. Pay scale of the applicants were given as 950-20-1150-EB-25-1500. Thus there is difference of Rs. 100/- on maximum scale.

4. The nature of work and duties performed by the Workshop Attendant of Advanced Training Institute, Sion, Bombay and Vocational Rehabilitation Centre are same. In fact the applicants are required to work with greater care / intelligence and presence of mind because they are supposed to assist the Handicapped persons in the centre. The duties of work performed by the Workshop Attendants working in Advance Training Institute, Sion, Bombay are given in Annexure A-4 and duties of Workshop

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Attendants working in Vocational Rehabilitation Centre are given in Annexure A-5. The Recruitment Rules (Annexure A-6 and A-7) of both Institutes are similar. The pay scales for both Institutions ~~are~~ all the time i.e. since IInd, IIIRD and IVth Pay Commission were similar. The denial of the pay scale of Rs. 950-20-1150-EB-25-1500 to the applicants has caused not only perpetual loss of Rs. 100/- in their maximum pay, affecting their pensionary benefit, but it is distressing and dispiriting the class of workers while functioningⁱⁿ their day to day work. Thus discriminatory, arbitrary, indifferent attitude on the part of respondent No.1 has put the applicants into loss. The applicants have submitted their representation vide Annexure A-8, the question was raised in meeting dated 28.6.1991 and 24.1.1992. Further representation is dated 5.4.1995 but in vain. After resolution to file OA on 20.6.1995, this OA for the aforesaid reliefs.

5. The claim of the applicants is being resisted by the respondents stating the fact that the applicants are challenging the said order dated 17.10.1986 by filing an application before the Tribunal, in the year 1995 after a lapse of 9 years. As such the claim is barred by time, suffers from delay and laches and the OA deserves to be dismissed. It is not a continuous cause of action which deprived the applicants of their Fundamental Rights. The Workshop Attendants working in the field of Institute under the control of Directorate of DGE & T were given pay scale of Rs. 900 - 1500 as per the recommendations of the IVth Pay Commission

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under the category of Workshop staff vide respondents order No. DGETA-11014/2/86-TA-II dated 17.10.1986. The Workshop Attendants had not been granted the said pay scale of Rs. 950- 1500 in Advance Training Institute. The recommendation of the IVth Pay Commission is followed strictly according to rules. The applicants cannot compare pay scale of other wings^{of the} department for determining the pay scale. Apart from the recruitment Rules, working on the same footing are to be taken into consideration. The contentions of the applicants that nature of work ~~that~~ of the applicants at Advance Training Institute, Sion Bombay and Vocational Rehabilitation Centre, Sion Bombay are the same is being denied. The action is neither discriminatory nor arbitrary and no in-different attitude is adopted by the respondents towards the applicants. As the grievances of the applicants are not taken into consideration by the Ministry of Finance and also ^{have} rejected the same the applicants are not entitled to raise the grievance again. However the Ministry of Finance directed the department to take up the matter with Vth Pay Commission. Hence prayed for dismissal of the OA alongwith costs.

6. The applicant has filed rejoinder reiterating the said pleadings raised in the OA.

7. The Tribunal has passed an order on 3.5.2000 and in compliance there of the respondents have filed affidavit of Shri M.M. Gupta, Senior Superintendent, Vocational Rehabilitation Centre for Handicapped, having office at ATI Campus, Sion, Bombay. It is being stated that the Vth Pay Commission recommended the pay scale of Rs. 3050 - 4590 to the Workshop Attendant which is at par with the pay scale of Workshop

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Attendant of both Directorates and the same is published in Gazette. So there is no anomaly in the pay scales of Workshop Attendants. It is also alleged that no difference in pay of Shri P.R. Kelkar (applicant No.2) when reached at the maximum of the pay scale Rs. 950 - 1400 on 1.1.1992, since he was granted in-situ promotion in the grade of Rs. 950 - 1500 and pay reached at Rs. 1450/- as on 1.1.1993 at par with his senior employee as per pay fixation order dated 5.6.1997.

8. The applicants are claiming the relief based on the fact that the duties are similar and recruitment rules being same in Vocational Rehabilitation Centre for Handicapped and Advance Training Institute, the pay scale of the said two Institutes was same in IInd and the IIIrd Pay Commission. Even in Vth Pay Commission they are kept on par hence the applicants claim equal pay for equal work.

9. The fixation of pay on the principle of equal pay for equal work is to be determined by the expert body. The grievance of the applicants starts with 1986. However the OA is being filed on 29.6.1995 when Vth Pay Commission was considering the matter regarding pay fixation. The grievance of the applicants was considered by the Vth Pay Commission and the relief asked for has also been granted.

10. Pay fixation is a recurring cause of action and the applicant is entitled to seek the relief only for a period prior to one year of filing the OA. The respondents have placed on record Office Order dated 5.6.1991. A perusal of the same makes it clear that the applicant was not put to any monetary loss for

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the reason that he is promoted in-situ ⁴promotion to the next higher scale of pay of Rs. 950-20-1150-EB-25-1500 with effect from 1.1.1993. He was drawing Rs.1400/- on 1.1.1992. Thereafter on 1.1.1993 Rs. 1450/- on 1.1.1994 Rs. 1475/- on 1.1.1995 Rs. 1500/- Hence the applicant did not suffer any monetary loss.

11. In the result we do not find any merit in the OA, it is liable to be dismissed and is dismissed accordingly with no order as to costs.

Shanta

(Smt. Shanta Shastri)
Member(A)

S.L. Jain

(S.L.Jain)
Member(J)

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