

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 661/97

Date of Decision: 29.09.2001

Shri A.S. Kulkarni & Ors Applicant(s)

Shri Suresh Kumar. Advocate for applicant

Versus

Union of India & another ... Respondents

Shri V.G. Rege. Advocate for Respondents

CORAM: SHRI JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
SMT. SHANTA SHAstry. ... MEMBER (A)

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

(2) Whether it needs to be circulated to other Benches of the Tribunal?

(3) Library ✓

Shanta ✓
(SMT. SHANTA SHAstry)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.661/97

WEDNESDAY, THE 19TH DAY OF SEPTEMBER, 2001

CORAM: SHRI JUSTICE V.RAJAGOPALA REDDY.VICE CHAIRMAN
SMT. SHANTA SHAstry. MEMBER (A)

1. A.S. Kulkarni,
Head D'Man
2. P.D. Mate,
D' Man - 1
3. N.M. Pankhawala,
Head D' Man
4. R.B. Chandole
D' Man - 11
5. D.B. Zende, D' Man - 1
6. M.G. Wadekar, D' Man - 11
7. A.V. Dhekane, D' Man -11
8. A.J. Bhaduri, D' Man - 11
9. C.D. Dharampal, D' Man - 1
10. S.S. Aphale, D'Man - 11
11. M.G. Deshpande, D'Man - 11
12. T.T. Dedkar, d' Man - 1
13. P.S. Gore, D' Man - 11
14. A.B. Peshare, Head D'Man
15. B.A. Dikonda, D'Man - 11
16. S.N. Harischandrakar,
D'Man - 11
17. E.D. Belsarkar, D' Man - 11
18. S.T. Pokharkar, D'Maan - 111
19. M.J. Gokandaj, D'Man - 111
20. Flex J. Vaz, D'Man - 1
21. A.A. Kharadkar, D'Man - 11

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22. R.g. Kamble, D'Man - 11
23. M.A. Kadgi, D'Man - 111
24. S.B. Dhavale, D'Man, - 11
25. R.K. Naik, d'Man - 11
26. S.B.J. Agtap, d'Man - 111. .. Applicants

All the applicants are working under Respondent No.2 i.e. Central Water and Power Research Station, Khadakwasla, Pune-24.

By Advocate Shri Suresh Kumar.

Versus

1. The Union of India,
through the Secretary,
Ministry of Water Resources,
Government of India,
Shramshakti Bhavan,
R.K. Puram, New Delhi.
2. The Director,
Central Water and Power Research
Station, Khadakwasla,
Pune-24. .. Respondents

By Advocate Shri V.G. Rege.

O R D E R (ORAL)

Smt. Shanta Shastry. Member (A)

The relief claimed by the applicants in this OA is to place them in the pay scale of Rs.330-560 with effect from 1.1.73 notionally and grant arrears from 16.1.1978 or from the dates of appointment whichever is later as against the orders placing them at par with the Central Public Works Department (CPWD for short) draughtsmen scales of pay notionally from 13.5.1982 and actually from 1.11.1983 and further fixation in the scales on promotion and to pay interest at 18% per annum on arrears of pay. They have also prayed for any other

reliefs and to hold and declare that the respondents are bound to implement the judgments of various Benches of the Tribunal as well as the Delhi High Court.

2. The applicants are working as draughtsmen with the respondents. The pay scales of draughtsmen working in CPWD were revised as a result of an Arbitration Award. These draughtsmen were granted the revised scales with effect from 1.1.1973 notionally and actually from 16.11.1978. Thereafter, a Committee of the National Council (Joint Consultative Machinery) was set up to consider the request of the staff side to extend the revised pay scales of draughtsmen Grade-III, II, & I to draughtsmen working in all Government of India offices. Based on recommendations of this Committee, the orders were issued on 13th March, 1984 by the Ministry of Finance, Department of Expenditure extending the benefit of the revision of scales of pay to all draughtsmen Grade-III, II & I in the offices/departments of Government of India other than the CPWD notionally with effect from 13.5.1982 and the actual benefit being allowed with effect from 1.11.1983. One of the conditions stipulated was the recruitment qualifications are similar to those prescribed in the case of draughtsmen in the CPWD. A further OM was issued on 19.10.94 by the Ministry of Finance conveying the decision that the draughtsmen Grade-I, II & III in the offices/ Departments of Government of India other than those CPWD, may also be placed in the revised scales

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subject to a minimum period of service for placing them in the posts carrying the scale of Rs.975-1540 to Rs.1200 2040 (pre revised Rs.260-430, 330-560) and so on. The minimum period prescribed for the revised scales was 7 years, 5 years and 4 years. This was irrespective of the recruitment qualifications.

3. The recruitment qualification of draughtsmen in the Central Water and Power Research Station (CWPRS for short) earlier were not comparable with the recruitment qualification of draughtsmen Grade-I, II & III in the CPWD. These qualifications were brought on par only from 14.12.1983 and 20.6.1988 vide notification dated 20.1.95 issued by Ministry of Water Resources, New Delhi. As per the directives contained in the OM dated 13.3.1984 the applicants were given hike in pay scales retrospectively from 13.5.1982 to 31.10.1983 on notional basis and from 1.11.1983 on actual basis. Those who did not possess the recruitment qualification of draughtsmen in CPWD were to continue in the pre revised scales.

4. The respondents, in the written statement have stated that draughtsmen cadre of the CWPRS was separated from the combined cadre of draughtsmen of Central Water Commission, New Delhi and the CWPRS became a separate office of the Ministry of Water Resources. The draughtsmen working in the Central Water Commission, New Delhi had filed an appeal before the Supreme Court of India vide C.A. No.2985/91 claiming similar revised pay

scales as granted to the draughtsmen in CPWD from 1.1.73 and 16.11.78 on the ground of equal pay for equal work. The Supreme Court by their judgment dated 8.1.98 dismissed the appeal seeking notional benefit of revised pay scales of draughtsmen from 1.1.1973 to 16.11.1978 instead of from 13.5.1982 to 31.10.1983. According to the respondents, the present applicants, who were earlier borne on the combined cadre of the Central Water Commission have therefore, no case to claim similar benefits as given to the CPWD draughtsmen.

5. The respondents have also raised the plea of limitation. The applicants want to claim the benefit of revision of pay scales with effect from 1.1.1973 by challenging the Government letter dated 31.10.1996 whereby they were informed that the orders of CAT or other courts cannot be made applicable to the staff of CWPRS until and unless they were parties to it. It will be binding or applicable to all concerned only when Ministry of Finance / DOP & T issued general instructions in this regard. Thus, considerable time has elapsed since then and therefore, it has crossed the limitation period as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. The learned counsel for the applicants has relied on the judgment of the Calcutta Bench of the Tribunal in the matter of Shaktibrath Bose & Others Vs. Union of India & Others in OA No.446/86 decided on 09th

December, 1986 (1987 (5) ATC 788). In this judgment, the Tribunal proposed to refer the matter to a review committee to be constituted and after the recommendation of the review committee to consider the granting of similar benefits as given to the draughtsmen of CPWD. The Review Committee had accordingly gone into the matter and based on the report, the Ministry of Steel and Mines vide their letter dated 5th May, 1988 had granted the revised pay scales of draughtsmen with effect from 1.1.1973 notionally and 16.11.1978 actually. The applicants have also referred to another judgment of the High Court of Delhi in the matter of Dharmvir Sahadev & Others Vs. Union of India & Others in W.P. 911/81. The applicants, therefore, claim that they are also entitled to the grant of the revised scales notionally with effect from 1.1.1973 and actually from 16.1.1978. The applicants state that the judgments of the Delhi High Court and the Calcutta Bench are judgments in rem and not in personam. The judgment rendered by the Calcutta Bench of the Tribunal is binding on each and every person, who are similarly situated. Every one need not come to the court. The applicants have further relied on certain other judgments in support that all the persons, who are similarly situated should be given the benefit of the orders of the court and the same principle should apply to decide their case irrespective of the fact whether they have approached the court or not. If they are

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similarly situated, they are entitled to the same benefits. The applicants have also contended that their case was recommended by the Respondent No.2.

7. The respondents, in turn contend that the applicants are not entitled for the grant of revised scales from 1.1.1973 as in the case of CPWD because, the case of the draughtsmen of Central Water Commission of which the applicants were a part prior to 1979 was dismissed by the Supreme Court for identical prayer. The respondents have also relied on another case decided by the Tribunal in the case of Shri S.N. Dudhane & Others Vs. Union of India in OA No.524/93 wherein prayer for granting revised scales from 1.1.73 was dismissed.

8. We have heard the learned counsel for the applicants and have perused the pleadings as well as the reply of the respondents. The prayer of the applicants is to grant the benefit of the revised scales of draughtsmen to them from 1.1.1973 as in the case of the draughtsmen of the CPWD. It is to be noted that when the Ministry of Finance issued the OM dated 13th March, 1994, it was with the full knowledge that the draughtsmen of CPWD had already been granted the benefit from 1.1.1973. They distinguished these draughtsmen from draughtsmen in CPWD. Different judgments were passed by different Benches of the Tribunal on the same issue in the past. Of late, however, in view of the judgment of the Hon'ble Supreme Court in the matter of



Union of India & another Vs. P.v. Hariharan & another (1997 SCC (L&S) 838 that pay scales or pay fixation etc., are the domain of the Expert Bodies like Pay Commission and it is not for the Tribunals or courts to decide upon these matters, this Tribunal has taken the stand not to interfere in the matter of pay scales. More over the applicants were granted the revised pay scales with effect from the dates they acquired the qualification prescribed for the draughtsmen in CPWD much later.

9. This particular matter as already pleaded, is barred by limitation. The applicants wants the benefit of the judgment of Calcutta Bench delivered in 1986. The applicants have approached this Tribunal in 1997 after 11 years of the judgment. The applicants certainly could have approached this court immediately to extend the benefit of the judgment of the Calcutta Bench, the same could have been considered at that time. However, after a lapse of so many years, the request of the applicants cannot be entertained. They have not given satisfactory reasons for approaching this Tribunal so belatedly. The learned counsel for the applicants has placed reliance on the judgment of the Supreme Court in the case of M.R. Gupta Vs. Union of India (19195 SCSLJ 337) wherein it has been held that the claim to be paid correct salary computed on the basis of proper fixation is a right, which subsists during the entire tenure of service and can be exercised at the time of

each time of salary when the employee is entitled to salary, computed correctly in accordance with the rules. According to the applicants, it is a continuous cause of action and therefore the limitation would not apply in the present case. On merits, the incumbents are entitled to be paid correctly in accordance with the rules. The question of limitation would arise with regard to the consequential and other reliefs including the arrears if any for the past period.

10. In our considered view, the applicants cannot take the benefit of this judgment having approached belatedly. Also, here the question is not that the applicants have not been granted the revised pay scales of draughtsmen. The question is only of the dates from which the revised scales have been granted. It is not a case of an individual pay fixation. It is a policy decision of the Government to grant revised pay scales to the draughtsmen in other departments and Ministries from 31.5.1982 notionally and actually from 1.11.1983. This cannot be questioned. The applicants are not exactly on par with the CPWD draughtsmen. We do not find any violation of the rules either and therefore, the judgment in the case of M.R. Gupta (supra) cannot be made applicable for condoning the delay in the instant case. Recently the Supreme Court in the case of Union of India Vs. Shankar (JT 2000 (8) SC 77) has held that even in matters of pension, which presents a continuous

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cause of action, limitation would apply. Therefore, we are unable to condone the delay in this case and the application fails on the ground of limitation.

11. As already pointed out, on merits also the applicants have no case as they are not on par with the draughtsmen of CPWD as their qualifications were brought on par with the qualification of the draughtsmen of CPWD only at a much later stage and they have not, therefore, been granted the pay scales from 1.1.73. Being a policy matter also, it does not call for any interference. In our view, therefore, this is not a fit case for granting of the reliefs claimed with retrospective effect. In the result, the OA is dismissed. No costs.

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(SMT. SHANTA SHAstry) (V. RAJAGOPALA REDDY)
MEMBER (A) VICE CHAIRMAN (J)

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