

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

- TRANSFERRED/ORIGINAL APPLICATION NO. 508 of 1987.

DATE OF ORDER: 30.3.90.

BETWEEN:

G.Mohan Rao
& 150 others

APPLICANT(S)

A N D

Secretary,
Ministry of Defence,
South Block, New Delhi-110011 &
Scientific Adviser to the
Ministry of Defence, South Block, New Delhi-110011

RESPONDENT(S)

FOR APPLICANT(S): Shri K.Satyanarayana Rao, Advocate (For 1 to 71) &
Shri T.Jayant, Advocate (For 72 to 160).

FOR RESPONDENT(S): Shri E.Madan Mohan Rao, Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy: Member (Judl).
Hon'ble Shri R.Balasubramanian: Member (Admn).

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporter or not? *Yes*

3. Whether their Lordships wish to see the fair copy of the Judgment? *No*

4. Whether it needs to be circulated to other Bench of the Tribunal? *No*

5. Remarks of Vice-Chairman on columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

HJNM
M(J)

HRBS
M(A)

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No.508 of 1987.

Date of Judgment: 30.3.90

G.Mohan Rao
& 159 others

.. Applicants

Versus

Secretary,
Ministry of Defence,
South Block, New Delhi-110011 &

Scientific Adviser to the
Ministry of Defence,
South Block, New Delhi-110011..Respondents

Counsel for the Applicants : Shri K.Satyanarayana Rao,
Advocate (For 1 to 71)&
Shri T.Jayant,
Advocate (For 72 to 160).

Counsel for the Respondents : Shri E.Madan Mohan Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member (Judl).

Hon'ble Shri R.Balasubramanian : Member (Admn).

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member (Admn) I

This is an application filed by Shri G.Mohan Rao
and 159 others belonging to D.R.D.L., D.L.R.L. and
D.M.R.L. under section 19 of the Administrative Tribunals
Act against the Secretary, Ministry of Defence and the
Scientific Adviser to the Ministry of Defence, New Delhi.

2. The applicants are employed in the Stores Wing
of the above establishments. They point out that the

12

.....2

- 2 -

Director-General, Defence Research & Development
 in his reference Admin(RD-26)/0502/67 dated 29.5.67
 addressed to all the R&D establishments/laboratories
~~1b~~ while seeking certain information had ~~placed~~ the category
 of Store Keeper ^{as} ~~under~~ Scientific/Technical (Non-gazetted)
 They ~~alleged~~ that vide SRO-228 however the same category
 has been placed under Non-gazetted Ministerial. They
~~alleged~~ that this kind of change was whimsical without
 any reasons. They had been agitating for a revision of
 pay scales and an Expert Classification Committee was
 constituted by the Ministry of Defence. The applicants
 state that the Expert Classification Committee in its
 report had recommended change of designation of the
 Stores staff and also higher pay scales with promotion
 prospects. The Ministry of Finance (Defence) and the
 Department of Expenditure did not accept the recommenda-
 tion of the Expert Classification Committee on the grounds
~~involved~~
~~1b~~ of expenditure. The applicants are aggrieved that
 there were various anomalies in the recommendation of the
 Third Pay Commission itself and they wanted in their
 submission, to the Fourth Pay Commission, that these
 anomalies should be removed. They have quoted that the
 Supreme Court in its decision reported in A.I.R.1984
 SC.1221 in paras 5 to 7 had laid down the principles
 that the Pay Commission should follow which, according
~~1b~~ to them, had not been ^{done} ~~so~~. Not satisfied with the
 outcome of the Fourth Pay Commission also the Association

representing the interests of the applicants had made a representation to the Scientific Adviser to the Ministry of Defence in December, 1986. In their representation the applicants want that the Store Keepers should be treated as technical staff and the pay scales granted for technical personnel should be extended to them also and they should be continued to be treated as technical/scientific as made out in the Director-General's letter of 29.5.67 referred to earlier.

3. The applicants have prayed to this Tribunal that the Stores staff belonging to D.R.D.L., D.L.R.L. and D.M.R.L. be treated as technical staff, their designations be changed and the pay and allowances applicable to the technical staff be given to them with retrospective effect from 1.1.73 or in the alternative with effect from 18.12.79 as recommended by the Expert Classification Committee.

4. The prayer has been opposed by the respondents.

They have pointed out that the application is not maintainable since:

(a) it attracts the provisions of section 21 of the Administrative Tribunals Act. The relief sought for is with reference to the Third Pay Commission dating as early as 1.1.73. This Tribunal cannot go into matters which fall beyond 3 years prior to its constitution, and

(b) what is sought to be questioned is the Government's decision on Pay Commissions which are expert bodies which go into great details of pay structure taking into account all relevant factors. They have quoted the Supreme Court judgment reported in A.I.R.1977 SC.1553 in support of this argument.

5. They have also contended that the Expert Classification Committee referred to by the applicants had only suggested change of nomenclature of the store keeping staff. They have not recommended any change in the pay scales except in the case of Senior Stores Superintendent. This also was not accepted by the Government.

6. We have heard the learned counsels for both the applicants and the respondents. The applicants are represented by the learned counsels Shri K.Satyanarayana Rao and Shri T.Jayant and the respondents by Shri E.Madan Mohan Rao. While the applicants contend that the nature of job they have to do is more onerous than ^{that of} ~~Store Keepers in other departments and therefore~~ thereby entitling them to higher pay scales on par with technical staff, the respondents contend that store keeping job is just store keeping ^{is} and in this case no more onerous than obtaining in other departments. The applicants state that the Expert Classification Committee recommend apart from change of designation, better pay scales for them. The respondents on the other hand point out

- 5 -

that the Expert Classification Committee had not recommended change in pay scales. We do not have the recommendations of the Expert Classification Committee stated to have been enclosed to the application.

7. We find from the relief sought that in effect the applicants want apart from change of designation, higher pay scales with effect from 1.1.73 or from 18.12.79. Sub-section 2 of Section 21 of the Administrative Tribunals Act clearly states:

"Where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of 3 years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates."

Such applications can be entertained. If the application is in respect of a period more than 3 years prior to the setting up of this Tribunal, this Tribunal has no powers to entertain such applications. The Tribunal cannot condone delay in such cases [1987(3) ATC 427].

8. The Hon'ble Supreme Court also had not interfered in a few cases relating to recommendations by expert bodies, particularly the Pay Commission and its acceptance thereof. To quote:

(a) A.I.R.1977 SC 1553.

We think that these are questions entirely unfit for determining upon a petition for a Writ for the enforcement of fundamental rights. It requires: firstly, formulation of correct criteria for each classification, and, secondly, the application of these criteria to facts relating to the functions and qualifications for each class. The Pay Commission had done this elaborately.

The learned Solicitor General has invited our attention to the case of Union of India Vs. G.V.Prabhavalkar reported in (1973) 3 SCR 714 : (AIR 1973 SC 2102) where this Court held that equation of posts is not a duty which the High Court was competent to carry out in proceedings under Art. 226. We do not think that we have wider powers or that we can do with greater facility what a High Court cannot when exercising its writ issuing jurisdiction.

(b) A.I.R.1984 SC 1221.

(This is in a case where the Veterinary Assistant Surgeons of the Delhi Administration were aggrieved by a Pay Commission Recommendation and sought parity with the Veterinary Assistant Surgeons of the Union Territory of Chandigarh).

"In the above situation, we do not feel called upon to decide in isolation the question of discrimination raised before us. This is a matter which should be left to be decided by the Government on the basis of the recommendations of the Fourth Pay Commission. — ~~PARAS~~

"xxxxxxxxxxxx Having regard to the long delay in approaching this Court after the fixation of their pay scale earlier, we do not propose to grant any relief in respect of that period."

(Commenting on the prayer that arrears should also be with retrospective benefit from 1973 — the judgment is dated 12.4.84,

9. At the time of the hearing, the learned counsel for the applicants Shri T.Jayant mentioned that in a similar situation the Geological Survey of India has revised the pay scales of Stores Superintendent (Technical), Store Keeper (Technical) and Assistant Store Keeper (Technical) pursuant to the judgment passed by the Calcutta Bench of the Tribunal in O.A.No.139 of 1987 before that Bench. Subsequently he had furnished copies of the Order No.7231 C/A-20011/9(SRS)/87-15A(II) dated 14.12.88 approving revision of pay scales with effect from 21.3.84 and also of the orders

dated 26.11.87. From the half page order of the Calcutta Bench it is seen that the situation before us is not identical to the context in which such an order was passed by the Calcutta Bench.

10. We feel that the above application is woefully belated and does not call for any interference from this Tribunal. Accordingly the petition is dismissed with no order as to costs.

MS

(J. NARASIMHA MURTHY)
Member (Judl) ..

R.Balasubramanian
(R. BALASUBRAMANIAN)
Member (Admn) ..

Dated

30th March 1990

TV send 3/4/90
DEPUTY REGISTRAR (A)

TO:

1. The Secretary, Ministry of Defence, south Block, New Delhi-110 011.
2. The Scientific adviser to the Ministry of Defence, south block, New Delhi-110 011.
3. One copy to Mr. K. Satyanarayana Rao, Advocate, 85, S.B.I. officers colony, Moosaram Bagh, Hyderabad. (For RR 1 to 71)
4. One copy to Mr. T. Jayant, Advocate, 17-358, Srinagar colony, Gaddiannaram P&T colony, P.O. Hyderabad- 500 550.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
6. One copy to Hon'ble Mr. R. Balasubramanian: (Member): Admn. CAT., Hyderabad.
7. One spare copy.
7. Sri Sanjeeva Malhotra, All India Services, Law journal 89, Hakikatnagar, Mal Road, New Delhi-9.
8. M/s Eastern Book Company, 34, Lal Bagh, Lucknow.
9. M/s Delhi Law Times, 5355, Jawahar nagar, Kolhapur Road, Delhi-7.
10. Sri Hasin Ahmad., Spi. Representative Reporter, A.I.R. Ltd., No. 21-1-1964 & 65, Gandhi Bazar, opp. High court Bar Association, Hyderabad.
11. The Administrative Tribunal reporter, Bhagat Singh Market, 90, New Delhi-110 001.
12. Sri ~~NBS~~ Sarma, General Secretary, All India equal rights Association, E-58, HUDA, Residential complex, Vanasthalipuram, Hyderabad.
13. The Dy. Registrar (J), Central Admn., Tribunal, Hyderabad Bench, Hyderabad.
14. One copy to Library, CAT, Hyderabad Bench, Hyderabad.
16. ~~Two~~ spare copies.