

46

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

O.A. No. 265 of 1987
~~T.A. No.~~

DATE OF DECISION 31-8-89

R. P. Narasimham and 33 others Petitioner

T. Jayant Advocate for the
Petitioner(s)

Versus

UOI, rep. by Secy, Min. of Finance and 2 others Respondent

N. Bhaskara Rao, Addl. CGSC Advocate for the
Respondent(s)

CORAM

The Hon'ble Mr. D. Surya Rao, Member (J)

The Hon'ble ~~Mr.~~ Ms. Usha Savara, Member (Admin.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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)

20

HDSR
27(J)

HUS
27(A)

ORIGINAL APPLICATION NO.265 of 1987

ORDER OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO, MEMBER(J).

The applicants herein are Senior Accountants in the office of the 3rd respondent. With effect from 1.3.1984, the staff in the Indian Audit and Accounts Department were bifurcated into two separate cadres, Audit cadre and Accounts cadre. The Senior Accountants were drawing the pay in the scale of Rs.425-700 prior to bifurcation, ~~and discharging the same functions.~~ Consequent on restructuring, the pay structures for Audit and Accounts cadres have been changed and the Senior Accountants viz., applicants herein have been continuing in the pay scale of Rs.425-700 while 80% of the auditors who went to the Audit wing were given higher scale of pay of Rs.425-800 with the benefit of pay fixation in accordance with FR 22-C. Aggrieved by the restructuring scheme, writ petitions were filed in the High Court of Andhra Pradesh. The Accounts staff also represented before the ^{4th Pay Commission} ~~Court~~ regarding disparity of pay scales. ^{that} The 4th Pay Commission recommended on the representation, ^{that} the same pay scale of Rs.1400-2600 should be given to the Audit and Accounts cadres for the posts in the ^{presented} pay scales of Rs.425-700 and Rs.425-800 respectively. The Government of India accepted the Pay Commission's recommendation and thus restored the parity existing before 1.3.1984 by accepting the recommendation of the 4th Pay Commission. The applicants, however, contend that for the period from 1.3.1984

9.3.86
13/2/87

to 31.12.1985 the benefit of parity had not been given. They had, therefore, filed the application seeking a direction to the respondents to place the applicants in the pay scale of Rs.425-800 for the period from 1.3.1984 to 31.12.1985 with the benefit of pay fixation in accordance with the provisions of FR 22-C with all consequential monetary benefits.

2. The respondents have filed a counter denying the claim of the applicants. It is stated in the counter that the restructuring scheme has been upheld by the Tribunal in T.A.Nos 8 and 9 of 1987. It is further stated that the applicants were given an opportunity to opt either to remain in the Accounts side or to the Audit side when restructuring ^{was ordered} ~~is made~~. The applicants opted to remain ~~the~~ in the Accounts side and are governed by the Rules, Regulations and conditions of service applicable to the staff of Accountant General (A&E). Thus, there was no discrimination involved since all the incumbents prior to 1.3.1984 were given an opportunity to make their option. It is further contended that the application is belated and, therefore, hit by Section 21 of the Administrative Tribunals Act. The application is, therefore, liable to be rejected.

3. We have heard the learned Counsel for the applicants Shri T.Jayant and the learned Standing Counsel for the respondents Shri Naram Bhaskara Rao, Addl. CGSC. The main ground on which the applicants claim that they should be put into the same scale

~~Andixxxs~~ on par with the Auditors and introduction of restructuring scheme is discrimination. ^{namely} It is stated that ~~is that prior to 1.3.1984~~ prior to 1.3.1984 they were in the same scale as Auditors and that after the Pay Commission's recommendation, they have been given the same scale. It is only during the interregnum period viz., from 1.3.1984 to 31.12.1985 that there has been a disparity and as such they are entitled to claim ⁱⁿ higher pay scale ^{granted to} of Auditors during this period. This ground is untenable for the reason that the applicants were given ^{an} option along with others similarly situated to come over to the Audit wing ^{and if} they ~~may~~ ^{had} done so they would have been eligible to the pay scale of Rs.425-800 which they stated that they are now eligible for. Having not opted to come over to the Audit side and get the benefits, it would not be open to them to claim that they should be given the same pay scale having remain^{-ed} in the Accounts wing. There is no doubt that those in the Audit side though given higher scale of pay, ^a ought to have been subjected to certain disadvantages when compared to those in the Accounts wing. To cite one instance, there is no special pay attached to any of the posts on the Audit side in the pay scale of Rs.425-800. It is possible that there are other disadvantages like slower rate of promotion etc. Having deliberately not opted ^{go to} to Audit side, it would not be open to the applicants thereafter to claim that they are entitled to the same scale of pay as to those on the Audit side. Apart there-from, it is clear that the application is clearly time-barred. The discrimination, if any, had arisen on 1.3.1984 viz., when the Audit wing was separated

as a result some of the employees
 from the Accounts wing and those previously in the pay scale of
 Rs.425-700 were given higher pay scale of Rs.425-800 after going
 out to the Audit side. The cause of action had, therefore,
 arisen on 1.3.1984. The applicants should have come to the
 Tribunal within six months after the constitution of the
 Tribunal viz., by 31.5.1986, ^{and agitated this issue.} The application, however, had been
 filed as late as April 1987. The application is, therefore,
 clearly time barred and hit by Section 21 of the Administrative
 Tribunals Act. The learned counsel for the applicants states
 that they were pursuing the alternative remedies viz., writ
 petitions etc., in the High Court of Andhra Pradesh and in the
 Tribunal wherein they questioned the restructuring of the scheme.
 This, in our opinion, should not make any difference. The relief
 claimed in the writ petitions viz., ^{questioning} ~~struck down~~ the restructu-
^{scheme} ring is totally different ~~from~~ to the relief claimed in this appli-
 cation viz., parity in the pay scales. It ^{was} ~~is~~ always open to
 the applicants to claim at any time after 1.3.1984 ^{irrespective} ~~whenever~~ the
^{of their own} ~~reasons~~ the applicants have filed the writ petitions questioning
 the restructuring scheme. In view of the fact that they did not
 do so, their case is barred by limitation.

4. Shri Jayant on behalf of the applicants states that
 this order should not preclude from making a representation to the
 Department in this regard. No direction is required, since it is
 always open to the employees to represent to their superiors and

Ⓟ

PL 22
12/11/89

- ✓ TO
 Secretary, Union of India,
 Ministry of Finance,
 Dept of Expenditure, New Delhi - 1.
- ✓ 2. Controller and Auditor General of India,
 New Delhi - 110002.
- ✓ 3. Accountant General, (A/E),
 Andhra Pradesh, Hyderabad - 500004.
- ✓ 4. one copy to Mr. T. Jayant, Advocate
 H I G - II, Block - 2, Flat - 4,
 Opp. Water Tank, near Ambedkar College,
 Baghlingampalli, Hyderabad.
- ✓ 5. one copy to Mr. N. Bhaskara Rao, Addl. Case,
 CAT, Hyderabad.

6. one spare copy.

988 Left

10/2/88

DRG
 Recd on 6/2/88
 At: 3.05

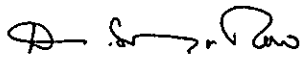
51

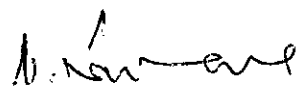
.. 5 ..

if the Government wants to ^{grant} ~~do~~ any benefit, it ^{always} ~~is left~~ open to the Government to do so.

5. For the reasons given in the preceding paragraphs, we find no merit in the case. The application is accordingly dismissed. There will be no order as to costs.

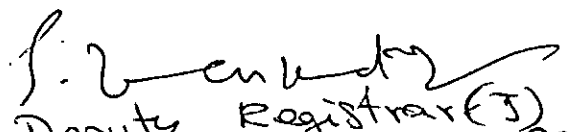
(Dictated in the open Court).


(D. SURYA RAO)
Member (Judl.)


(Ms. USHA SAVARA)
Member (Admn.)

Dated: 31st August, 1989.

Pg
23
10/9/89


Deputy Registrar (J)
13/9/89

vsn