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Central Administrative Tribunal

HYDERABAD BENCH: AT HYDERABAD

O.A. No. 816/89.

T.A.No.

Date of Decision: 15.11.1991.

Smt. N.Lalitha & 9 others

Petitioner.

Shri V.Venkateswara Rao

Advocate for the
petitioner (s)

Versus

Union of India, rep. by Secretary,
Ministry of Steel & Mines, Department of Mines,
Shastri Bhavan, New Delhi-11000 & 3 others

Respondent.

Shri N.V.Ramana, Addl. CGSC

Advocate for the
Respondent (s)

CORAM:

THE HON'BLE MR. R.Balasubramani : Member(A).

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgement? 43-
2. To be referred to the Reporter of? 43
3. Whether their Lordships wish to the fair copy of the Judgment? }
4. Whether it needs to be circulated other Benches of the Tribunal? }
5. Remarks of Vice Chairman on cols 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

RBS
(A).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.816/89.

Date of Judgment 15.11.1991.

1. Smt. N.Lalitha
2. " Pankajam Muthukrishnan
3. " Clara
4. " P.Sayilakshmi
5. K.A.Narayanan Nair
6. N.Ranganathan Iyer
7. Varghese John
8. Eapen C.Varghese
9. S.Sivadasan
10. G.Lukose .. Applicants

Vs.

1. Union of India,
rep. by Secretary,
Min. of Steel & Mines,
Dept. of Mines,
Shastri Bhavan,
New Delhi-110001.
2. The Director-General,
Geological Survey of India,
Calcutta-700016.
3. The Sr. Dy. Director-General
(Personnel),
Geological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta-700016.
4. The Dy. Director-General,
Geological Survey of India,
Southern Regional Office,
5-5-449, Manoranjan Bldg.,
M.J.Road, Hyderabad-500001.. Respondents

Counsel for the Applicants : Shri V.Venkateswara Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl. CGSC

CORAM:

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

This application has been filed by Smt. N.Lalitha and 9 others under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, rep. by Secretary, Min. of Steel & Mines, Dept. of Mines, Shastri Bhavan, New Delhi-110001 and 3 others. The prayer in this application is to step up their pay on par with their immediate juniors

.....?

in the same category of Upper Division Clerks (UDCs for short) w.e.f. 1.3.85 in the old scale and w.e.f. 1.1.86 in the replaced new scale.

2. The applicants who joined the Geological Survey of India (G.S.I. for short) in the grade of Rs.260-400 were all promoted as UDCs in the scale of Rs.330-560 w.e.f. 1.3.85. Their seniority interse as well as with respect to others remained undisturbed after promotion also. However, in the fixation of their pay w.e.f. 1.3.85 they were placed at a lower point in the promoted scale than some of the juniors. When the new scales were introduced w.e.f. 1.1.86, this difference persisted. Aggrieved, they represented and the representation was rejected by Respondent No.4 vide his impugned letter No.8781-82/A.20012/61/68/15A dated 5.8.87. Thereafter also the applicants have been representing but with no success. Hence this application with a prayer that the impugned letter dated 5.8.87 be quashed and the respondents directed to step up their pay on par with the juniors w.e.f. 1.3.85 in the old scale and w.e.f. 1.1.86 in the new scale.

3. The respondents have filed a counter affidavit and oppose the application. It is their case that their pay has been fixed on promotion by application of F.R.22(c) as required. It is admitted that some of the juniors have been placed at a higher point ~~but then~~ ^{and} this was due to the adhoc promotions enjoyed by the juniors in the cadre of UDCs. It is contended that such adhoc promotions were given based on local seniority and the juniors who have been placed at a higher point of scale had earned many increments in the course of their adhoc promotions. When they were promoted regularly to the cadre of UDCs their pay was fixed taking into account the increments earned by them in the course of the adhoc promotions.

4. I have examined the case and heard the learned counsels for the applicant and the respondents.

5. The fact that on promotion ^{as UDCs} juniors were placed at a higher stage in the scale of pay than the seniors is admitted. The reason given is that the juniors had the benefit of adhoc promotion which does not affect the seniority but gives them the benefit of higher pay fixation by virtue of increments earned by them due to the fortuitous adhoc promotion. In a similar case to which I was a party (V. Vivekananda Vs. Ministry of Secretary, Water Resources - O.A. No. 622/89) while reviewing the case in R.P. No. 71/90 thereto this Bench followed the decision of the Calcutta Bench of this Tribunal reported vide I 1988 I 7 ATC 224. In that case also the juniors were fixed at a higher point by virtue of the adhoc promotions they enjoyed. This Bench, following the Calcutta Bench judgment decided that not having had the benefit of fortuitous adhoc promotions the senior should not be at a disadvantage in pay fixation and, therefore, directed the respondents to step up the pay of the applicant therein on par with his juniors. This matter was appealed against by the Government in the Hon'ble Supreme Court which, by its order dated 22.8.91, in disposing of the SLP No. 13994/91 upheld the decision of this Bench. Thus, the point of law now is in favour of the applicants herein. It is seen from the statement at page 5 of the application that 3 of the applicants Smt. N. Lalitha, Smt. Pankajam Muthukrishnan and Shri K.A. Narayanan Nair are not at a disadvantage in the matter of pay fixation since none of their juniors shown in the statement was ^{given} shown at a higher ~~stage~~ scale. The other 7 applicants are, however, adversely affected and in my opinion entitled to higher pay fixation.

6. The learned counsel for the respondents Shri N.V. Ramana raised the point of limitation. It is seen that even at the ^{admission} time of ~~appointment~~ this question was considered and the

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application was ~~admitted~~ considered subject to limitation. The representation of the applicant was rejected on 5.8.87 and this was enough cause for the applicants to seek legal redressal within the time limit ~~of~~ one year thereof. They, however, pursued the matter at other levels and this does not save them from limitation. The learned counsel for the respondents, therefore, wanted the application to be dismissed on this score. No doubt, there had been laches on the part of the applicants ~~on this score~~ but then this is a recurring event and every month when the seniors draw less pay than their juniors for no fault of theirs it is a ~~regularly~~ grievance repeating itself. At the same time, the question of limitation cannot also be overlooked. Sub-section 1(a) of Section 21 of the Administrative Tribunals Act, 1985 requires that where a final order causing grievance had been passed, the application should be made within one year from the date on which such final order had been made. In this case the applicants had clearly failed to do this. However, I am not inclined to dismiss the application on this score and since the point of law is very much in favour of the applicants I am inclined to give them the benefit of higher pay fixation but within the limits imposed by Section 21 of the Administrative Tribunals Act, 1985. ~~applicants~~ This application was filed by the ~~xxxxxx~~ on 21.9.89. In terms of Section 21 of the Administrative Tribunals Act, 1985 I am inclined to take the cause of action ^{as} having arisen on 22.9.88.

7. In view of the above, I direct the respondents to fix the pay of the applicants 3, 4, 6, 7, 8, 9 and 10 on par with the pay of their immediate juniors in the cadre of UDC. w.e.f. 22.9.88. They are also entitled to all the

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consequential benefits including arrears due to difference in pay because in this case they have actually worked as ~~UDCs~~ during this period, in the appropriate capacity. I direct that this order be implemented within a period of four months from the date of receipt of this judgment. There is no order as to costs.

R.Balasubramanian

(R.Balasubramanian)
Member (A).

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Dated 15th November, 1991.

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Deputy Registrar (J)

DB/

To

1. The Secretary, Union of India,
Min. of Steel & Mines, Dept. of Mines,
Shastri Bhavan, New Delhi-1.
2. The Director-General, Geological Survey of India,
Calcutta- 700 016.
3. The Sr. Deputy Director-General (Personnel)
Geological Survey of India,
27. Jawaharlal Nehru Road, Calcutta-16.
4. The Dy. Director-General,
Geological Survey of India, Southern Regional Office,
5-5-449, Monoranjan Bldg., M.J. Road, Hyderabad - 1.
5. One copy to Mr. V. Venkateswar Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT, Hyd.
7. Copy to All Reporters as per standard list of CAT, Hyd.
8. One spare copy.

pvm

15/11/91
S. H. S.

15/11 *5* *Single*
TYPED BY

COMPARED BY

CHECKED BY *6/2*

APPROVED BY *16/11/91*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. *S.V.C*

AND

THE HON'BLE MR. *M(J)*

AND

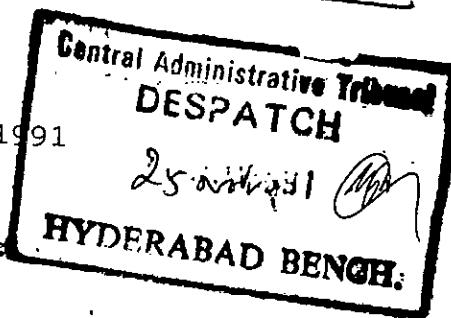
THE HON'BLE MR. R. BALASUBRAMANTAN : M(A)

AND

THE HON'BLE MR. *M(J)*

DATED: 15- 11 -1991

UNDER JUDGMENT:



M.A./R.A./C.A. No.

in

C.A. No. 816 | 89.

T.A. No.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowd.

Disposed of with directions
Dismissed.

Dismissed as withdrawn.

Dismissed for ~~fault~~.

M.A. Ordered Rejected

No order as to costs

pvm