

J A I P U R.

O.A. No. 190/93

Date of decision: 6.4.94

VEER SINGH

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. K.S. Sharma : Counsel for the applicant.

Mr. K.N. Shrinial : Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant, Veer Singh, a retired employee, submitted this O.A. in March, 1993 after the judgment of the Principal Bench in OA No. 2420/91 - Navendra Kumar & Ors Vs. Union of India, decided on 17.7.92. He submitted the representation on the basis of the said judgment invoking the provisions of Article 14 and prayed that the principles laid down in the said Judgment should be applied to him and his prayer for stepping-up the salary should be accepted. Mr. Sharma, the learned counsel for the applicant, has moved the M.A. (No. 172/94) may be second or third time for the same purpose and has now prayed that his client should be given benefits from the date his juniors were given. Ordinarily, such applications cannot be accepted, particular when the court feels that there is something which is lacking,

2. Mr. Shrinial, appearing on behalf of the respondents has raised three preliminary objections; (i) that Chuni Singh, Respondent no. 3, is from Delhi whereas the applicant is from Rajasthan Circle. The second objection is about M.A. and the third objection is about the limitation. It is true that the stepping-up has been claimed from 1.5.90. It is also true that the petition has been filed in 1993.

3. Article 37 of the Constitution of India directs that the directions laid down in Chapter IV will be fundamental in the governance of the country. Apart from

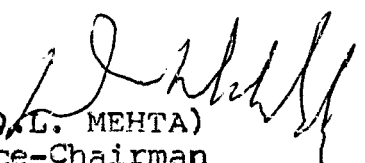
that, Article 14 also directs that there should be equal treatment and the State should strive to achieve the same. Ordinarily, it is expected from the State and particularly, from the Welfare State that the relief should be granted to similarly situated persons and they should not be dragged to come to the court and the unnecessary arguments on limitation should ordinarily not be raised when the question of fundamental rights and equal treatment is involved. Article 14 over-rides the statutory law being a constitutional provision. One must understand the difference between the devolution, decentralisation and non-centralisation. In the Federal State, the doctrine of non-centralisation is there and in the Unitary System, the Doctrine of Devolution and Decentralisation may be invoked and may not be invoked. So the basic difference is that in the federal structure, Constitution is the supreme and it overrides any statute when it is violative of the principles of equality and for this very reason, the Doctrine of Ultra-Vires is invoked in our structure. I would like to pass an order in this case though it is for the respondents to determine whether the seniority is maintained division-wise or at a central level. If the seniority is maintained at a central level, then the seniority and juniority will be counted on the basis of central level. In case, it is maintained at a state level or divisional level, then it shall be counted at a state level or a divisional level. Thus, the objection raised by Mr. Shrimal is accepted, to this extent that Chuni Singh is from Delhi and the benefit cannot be extended to him if the central seniority is at central level. If the central seniority is not there but it is a state seniority or divisional seniority, then his argument may have some force; as far as

Respondent Nos. 4 and 5 is concerned, it is immaterial.

I am not passing any order of a particular nature except that the benefits granted under the Judgment of the Tribunal in the case of Navendra Kumar Vs. Union of India - OA No. 2420/91 dated 17.7.92 should also be granted to the applicant and any letter which is inconsistent or direction which is inconsistent with this Judgment will not come in the way.

4. The respondents should determine when his juniors were given stepping-up of the salary and the applicant should be given the stepping-up of the salary within a period of three months from the receipt of the copy of this order and the judgment of the Principal Bench should be applied. This process should be completed within three months.

5. The O.A. is disposed of accordingly, with no order as to costs.


(D.L. MEHTA)
Vice-Chairman