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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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O.A. 518/94

Date of Decasion: 27.6.95.

K.D. Nagar, M.D. Verma, P.M. Mathur, P.S. Gurawa, P.D. Verma, G.S.Sharma, K.L. Sharma, Gopi Kirshan, U.C. Sharma, S.K. Khincha, Kalu Ram Mandotiya, Padam Singh, L.P.C. Bhandari, K.C. Jain and A.K. Bhatt.

... APPLICANTS.

Versus

1. The Union of India through Secretary to the Government of India, Ministry of Telecommunication, Department of Posts, New Delhi.
2. Deputy Director of Accounts (Postal), Tilak Nagar, Jaipur (Rajasthan).

... RESPONDENTS.

CORAM:

HON'BLE MR. O.P. SHARMA, MEMBER (A)

HON'BLE MR. PATTAN PRAKASH, MEMBER (J)

For the Applicants

...SHRI RAJDEV TRIPATHI

For the respondents

...SHRI U.D. SHARMA.

O R D E R

PER HON'BLE MR. O.P. SHARMA, MEMBER (A).

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicants, named above, have sought a declaration that the special pay of Rs.35/-, being granted to the applicants as Junior Accountants, ~~be~~ be included in the pay at the time of fixation of pay on promotion to the post of Senior Accountant. They have sought a further direction to the respondents that the pay of the applicants should be revised in view of the declaration made by the Tribunal, as sought in the above prayer, with all consequential benefits.

2. Applicants' case is that while working as Junior Accountants in the Department of Posts they were granted

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special pay of Rs.35/- vide order dated 19.2.81 (Annexure A-2), on account of an order passed on the same date (Annexure A-1) to the effect that they were performing the duties of a complex nature. Vide order dated 8.7.85 (Annexure A-3) they were promoted as Senior Accountants in scale of Rs.425-700. The grievance of the applicants is that on promotion as Senior Accountants the special pay of Rs.35/-, granted to them in the post of Junior Accountant, was not taken into consideration for the purpose of fixation of pay in the post of Senior Accountants. Various Senior Accountants working at different places filed applications before the Bombay, Cuttack, Chandigarh and Bangalore Benches of the Tribunal, seeking fixation of pay as Senior Accountants after taking into account the special pay of Rs.35/-, granted to them as Junior Accountants. These Benches of the Tribunal had directed that the special pay should be taken into consideration for the purpose of fixation of pay in the post of Senior Accountants. The applicants submitted representation Annexure A-7 to the respondent No.1 for fixation of their pay in the light of judgements of the Bombay and Cuttack Benches of the Tribunal. The respondents replied vide Annexure A-8 that this request cannot be accepted untill the Special Leave Petitions filed before the Hon'ble Supreme Court against similar judgements of various benches of the Tribunal are finally decided. The applicants' grievance is that the respondents have wrongly fixed their pay by not taking into consideration the amount of Rs.35/- for fixation in the scale of Senior Accountant in view of the provisions of FR 22C read with definition of expression 'pay'. Those who were granted the benefit of fixation on the basis of orders of the Tribunal and the applicants constitute one class of persons and therefore the applicants are also entitled to fixation of their pay as Senior Accountants after taking into consideration the special pay of Rs.35/-, granted to them as Junior Accountants.

3. The respondents in their reply have taken some preliminary technical objections to the maintainability of the OA. It is that the application has only been verified by applicant No.1 and not by other applicants and therefore it is not maintainable. They have added that representation at

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Annexure A-7 filed by the applicants does, not indicate any date and it appears to have been filed in 1994. Therefore, the application was barred by limitation inasmuch as the cause of action on account of non-fixation of pay on the basis of special pay of Rs.35/- had arisen to the applicant in 1986 on their promotion as Senior Accountants. Further, according to them, the decisions of the Tribunal, which have been rendered during 1991-92, would also not extend the period of limitation in favour of the applicants. On merits also, the respondents have stated that the applicants are not entitled to fixation on the basis of special pay of Rs.35/-, granted to them as Junior Accountants.

4. The learned counsel for the applicants produced before us, during the hearing, a copy of the judgement of the Hon'ble Supreme Court in Union of India and others v/s. Mohd. Haroon Rashid and others, in Civil Appeal No.1208/92 and certain other Civil Appeals mentioned in the said judgement, delivered on 19.1.95, which has been taken on record. In this judgement, according to the learned counsel for the applicants, the hon'ble Supreme Court have held that the special pay of Rs.35/-, granted to Junior Accountants in the Department of Posts, should be taken into account for the purpose of fixation of their pay as Senior Accountants in view of the provisions of FP 22C. He has, therefore, prayed that the respondents should be directed to refix the pay of the applicants w.e.f. the date from which they were promoted as Senior Accountants by taking into account the special pay of Rs.35/-, granted to them as Junior Accountants. The learned counsel for the respondents stated that the applicants did not agitate their grievance in 1986, when their pay was initially fixed in the grade of Senior Accountants. It was only in 1994 or thereabout that they first raised the grievance by filing a representation Annexure A-7. Therefore, claim of the applicants is clearly barred by limitation.

5. We have heard the learned counsel for the parties and have gone through the records including the judgement of the hon'ble Supreme Court, a copy of which was produced before us during the hearing and which has been taken on record. The

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judgement of the hon'ble Supreme Court is on the same issue which has been agitated by the applicants in the present OA. The applicants are, therefore, entitled to relief in view of the principle laid down by the hon'ble Supreme Court in this judgement. However, the applicants agitated the matter for the first time by filing a representation in 1994 and this OA was filed on 18.10.94, after their representation Annexure A-7 was rejected by the respondents by communication Annexure A-8 dated 19.7.94.

6. In the circumstances of the present case, we consider it appropriate that the benefit of refixation of pay by taking into account the special pay of Rs.35/-, granted to the applicants as Junior Accountants, shall be granted from a date prior to one year from the date of filing of the OA. In other words, this relief will be admissible to the applicants from 19.10.93. Arrears of pay shall be granted to the applicants from the said date within a period of three months from the date of receipt of a copy of this order.

(RATTAN PRAKASH) 27/10

MEMBER (J)

(O.P. SHARMA)

MEMBER (A)

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