

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.30/95

Date of order: 4/1/2000

1. D.L.Nama, S/o Shri Nathulal Nama, R/o Nai Nagri, Malpura, Dist.Tonk.
2. S.R.Partani, S/o Shri Ram Swarcop Partani, R/o Nai Nagri, Malpura, Distt.Tonk.

Both the applicants are presently posted as Sr.Computer in the O/o Central Sheep & Wool Research Institute, Avikenagar, Tonk.

...Applicants.

Vs.

1. Indian Council for Agriculture Research, Krishi Bhawan, New Delhi through its Secretary.
2. The Director, Central Sheep & Wool Research Institute, Avikenagar, Distt. Tonk

...Respondents.

Mr.R.N.Mathur) - Counsel for applicants

Mr.P.P.Mathur)

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

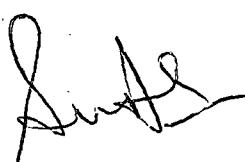
Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicants make a prayer that the respondents be directed to grant the pay scale of Rs.425-600 w.e.f. 1.1.73 in compliance of the judgment of the Andhra Pradesh High Court and to pay the applicants all arrears of pay with interest after fixing them in the pay scales as claimed by them.

2. Facts of the case as stated by the applicants are that applicant No.1 was initially appointed on 28.7.71 and applicant No.2 was appointed on 29.10.71 in CSWRI as Sr.Computers. This institution is subordinate to ICAR. It is stated that on the recommendations of the 3rd Pay Commission, the pay scale of Sr.Computers of ICAR were revised to 425-700 w.e.f. 1.1.73 but the same scale of pay was denied to the applicants working in CSWRI. It is also stated that as per the judgment of the Andhra Pradesh High Court which was up-held by the Division Bench also the applicants are entitled to the same scale of pay to which the Sr.Computers of IASRI being paid as qualifications for recruitment and duties performed by the applicants are similar to IASRI. It is further stated that Shri M.L.Tandon also sought direction from the Chandigarh Bench of the Tribunal to grant him higher pay scale of Rs.425-600 and the Tribunal vide its order dated 7.9.93 in O.A No.1081/90, held that the applicant is entitled to higher pay scale of Sr.Computers which is given to Sr.Computers of ICAR. It is also stated that the applicants filed various representations but not replied. Therefore, they filed O.A No.508/90 and the Tribunal directed the



respondents to take a decision in the matter within a period of 2 months. But the respondents rejected the claim of the applicants vide order dated 12.12.94, hence this O.A is filed.

3. Reply was filed. It is stated that keeping in view of the judgments of Andhra Pradesh High Court, the post of Computer has already been upgraded in the pay scale of Rs.425-700 w.e.f.1.2.90 and the applicants have been granted higher grade of 425-700 w.e.f. 1.7.79. Therefore, the application seeking relief w.e.f. 1973 is hopelessly barred by limitation. It is also stated that the judgments referred to by the applicants are not applicable in the instant case as the applicants did not approach this Tribunal within the stipulated period of limitation. It is also stated that the Third Pay Commission did not recommend this pay scale to those who possesses the same qualifications other than one institute and the applicants were not discriminated in any way. Therefore, this O.A having no merit and liable to be dismissed.

4. Heard the learned counsel for the parties and also peruse the whole record.

5. The learned counsel for the applicants admitted the fact that the applicants have been granted higher pay scales w.e.f. 1.7.79.. On the perusal of the pleadings of the parties it also appears that this O.A is hopelessly barred by limitation. The Tribunal will have the jurisdiction only on those matters in which the cause of action had arisen within a period of 3 years prior to coming into force of this Act, the applicants' claim basically w.e.f. 1.1.73, therefore looking to the facts and circumstances of this case, this C.A is hopelessly barred by limitation. The applicants have approached this Tribunal on the basis of the judgment of the Andhra Pradesh High Court in the year 1990 earlier and now in 95. But the judgment in another case does not give rise to a cause of action as it has been held by the Apex Court in Bhoop Singh Vs. UOI, AIR 1992 SC 1414. In the same way representations do not extend the period of limitation or give rise to a cause of action as has been held in State of M.P. Vs. S.S.Rathore, 1990 SCC(I&S) 50.

6. Even on merits, the applicants have no case for granting higher pay scale of Rs.425-700 w.e.f. 1.1.73. The principle of equal pay for equal work can be enforced only after the persons claiming satisfy the court that not only the nature of work is identical but in all other respect they belong to same class and there is no apparent reason to treat equals as unequal. Unless a clear case is made out and the court is satisfied that persons are being treated discriminately, court should not issue any writ or direction to treat them equal.

7. In the case of State of Tamil Nadu & Anr. Vs. M.R.Alagappan & Ors, JT 1997(4) SC 515, it has been held as follows:

"..That person claiming parity in pay on the principle of equal pay for equal work must show that this qualification duties and

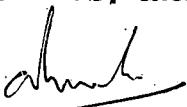
functions are similar to person with whom he claims parity."

"The requirement of law in respect of the present aspect was also considered by the Division Bench of this Court in the case of Dr. Bajrang Mahadur Singh & Anr. Vs. State of UP, reported in 1997(3) AWC 1476 and the relevant portion thereof is quoted below:

12. From the conspectus of views taken in the aforementioned decided cases, the position is clear that to substantiate a claim of higher scale of pay/salary on the basis of the principle 'equal pay for equal work' and petitioner-appellants will have to establish that they are equally placed in all aspects with the person or persons whose scale of pay/salary they claim. They must allege and prove that the mode of recruitment, eligibility qualifications prescribed, the nature of duties/responsibilities discharged/shouldered, the done and the service rule (if any) applicable to the two posts are similar. They cannot succeed in the case merely by showing that they have been discharging same duties which are being discharged by persons holding the other class of posts."

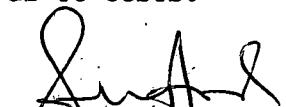
7. In view of the legal position as above and the facts and circumstances of this case, the applicants even on merits are having no case to be granted pay scales as claimed by them w.e.f. 1.1.73. Therefore, this O.A fails and liable to be dismissed.

8. We, therefore, dismiss this O.A with no order as to costs.



(N.P. Nawani)

Member (A)



(S.K. Agarwal)

Member (J).