

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(13)

O.A. No. 357/95
T.A. No.

199

DATE OF DECISION 25.11.1995

Narendra Singh Naruka & Ors.

Petitioner

Mr. P.P.Mathur

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr. V.S.Gurjar

Advocate for the Respondent (s)

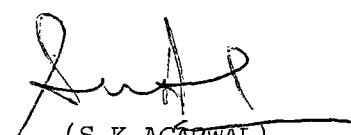
CORAM :

The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

The Hon'ble Mr. N.P.NAWANI, ADMINISTRATIVE MEMBER

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


(N.P.NAWANI)
Adm. Member


(S.K.AGARWAL)
Judll. Member

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 25.11.1999

OA 357/95

Narendra Singh Naruka, Anil Kumar Pareek, Vishamber Dayal, Smt. Gyan Batra, Sohan Lal Verma, Khusal Kumar Gyamli, Hemant Kumar Pareek, Satya Narain Sharma, Rajendra Kumar Khorania, Madan Gopal Khurana, Purshottam Narain Mathur, Dinesh Kumar Luhadia, Omkar Narain Soni, Sushil Kumar Godha, Smt. Pratibha Jain, Miss Sita Asawa, Miss Vimla Rawat, Puran Chand Mamoria, Chandra Prakash Chandwani, Smt. Pramila Kanwar, Chand Lal Meena, Smt. Snehlata Pareek, Sanjay Kumar Jain, Chetan Goyal, Smt. Suman Purohit, Rajendra Kumar Jain, Miss Gayatri Sardana, Mrs. Rekha Tejwani, Deepak Kumar Srivastava, Pradeep Kumar Jain, Ganesh Narain Sharma, Ramesh Chand Jat, Arnold Gray Rai, Arun Kumar Gaur, P.L. Yadav, Ishwar Singh Nathawat, Shanti Lal Jain, Gyarshi Lal Gupta, Mukesh Narain Nag, Arjun Kumar, Vankteshwar Nr. Goyal, Smt. Sudha Nagar, Smt. Shashi Bala Joshi, Kum. Veena Dongra, Smt. Sunita Rani Sharma, Mrs. Manju Jain, Smt. Meena Moolchandani, Kum. Kanta Dhanwani, Satish Chand Gupta, Smt. Binu Rani, Kailash Juneja, Prem Prakash Madan, Padam Singh, Hashu Aswani, Shyam Sundar Sharma, Hari Kishan Tiwari, Yogesh Kumar Bhargava, Ram Narain Koolwal, Pradeep Kumar Avasthi, Smt. Vandana Agarwal and Ram Sharan Kumawat

Applicants No. 2 to 12 are presently working as Junior Supervisor and Applicants No. 1, 13 to 61 are working as Data Entry Operators in the Directorate of Census Operations, Jaipur.

... Applicants

VERSUS

1. Union of India through Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
2. Registrar General of India, Ministry of Home Affairs, Govt. of India, 2/A, Mansingh Road, New Delhi.
3. Joint Director, Directorate of Census Operations, Rajasthan, Jaipur.

... Respondents

CORAM:

HON'BLE MR. S.K. AGARWAL, JUDL. MEMBER

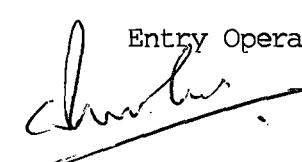
HON'BLE MR. N.P. NAWANI, ADM. MEMBER

For the Applicants ... Mr. P.P. Mathur
For the Respondents ... Mr. V.S. Gurjar

O R D E R

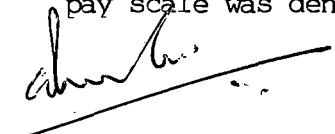
PER HON'BLE MR. N.P. NAWANI, ADM. MEMBER

All the 61 applicants in this Original Application joined as Data Entry Operators, Grade-B (for short, DEO 'B') in the Department of Census



(for short, DOC), Government of India (for short, GOI), albeit on different dates. The Fourth Pay Commission (for short, PC-IV), the recommendations of which came into force w.e.f. 1.1.1986, had suggested that DEO 'B' may be given the pay scale of Rs.1350-2200. GOI appointed Sheshagiri Committee to look into the grievances in relation to pay scales of DEOs performing same work in Railways & other Departments under GOI. The said Committee found that nature of duties and responsibilities attached to DEO 'B' were identical in all Departments & there was no difference in their qualifications and duties and, therefore, recommended that the pay scale of Rs.1350-2200 (and not Rs.1200-2050 as has been given to them) be extended to them also. The DOC extended the same but only w.e.f. 11.9.1989 and not from 1.1.1986. Following this, a series of cases were filed in the various Benches of the Tribunal, starting with the Cuttack Bench and followed by Lucknow and Hyderabad Benches. All these cases OAs were allowed and respondents were directed to give the pay scale of Rs.1350-2200 to the concerned applicants, all DEOs 'B' serving in Orissa, U.P. and Andhra Pradesh Directorates of the DOC. In facts, the respondents had approached the Apex Court with SLPs/Review Petitions against the orders of the Hon'ble Tribunal in these cases and all these SLPs/Review Petitions were dismissed by the Apex Court on 28.9.1994 and 5.12.1994 making the judgements of the Benches of the Tribunal final. Thereafter, the applicants in the present O.A. submitted representations to the respondents for giving them benefit of the pay scale w.e.f. 1.1.1986 in accordance with the judgements of the different Benches of the Tribunal. The office of the respondent No.2 issued an order dated 17.5.1995 (Annexure A/5) to the Directorates of Census Operations of U.P., Andhra Pradesh and Orissa to give the benefit of the higher pay scale to DEOs 'B' w.e.f. 1.1.1986. The respondents have not extended this benefit to the applicants even though they are discharging the same duties which are being discharged by DEOs 'B' of U.P., Andhra Pradesh and Orissa and the applicants and the Electronic Data Processing staff under Railways also perform the same/identical duties. The case of the applicants, therefore, is that they have been subjected to hostile discrimination vis-a-vis DEOs 'B' working in the same Department and since the benefit of the judgements of various Benches of the Tribunal have been given to certain employees, the applicants are also entitled to get the same benefit and confining the same to those who have approached the Court is violative of Article 14 of the Constitution of India, being arbitrary and unreasonable act.

2. The applicants in this OA are, therefore, praying that directions be issued to the respondents to give them the benefit of fixation of pay scale of Rs. 1350-2200 w.e.f. 1.1.1986 and pay them arrears for the period this pay scale was denied to them.



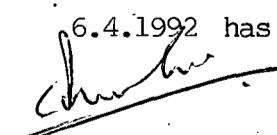
3. In their replies, inclusive of pre-objections, opposing the prayer made by the applicants, the respondents have essentially banked on the premise that the present Original Application is hopelessly barred by limitation as provided under Sections 20 and 21 of the Administrative Tribunals Act, 1985 (for short Act of 1985). The applicants did not raise any grievance at the time it was suffered by them i.e. for the period from 1.1.1986 to 11.9.1989 but raised it only in the year 1995 after having learnt about some judgements of various Benches of the Hon'ble Tribunal and after the Apex Court decided the controversy finally in December, 1994. It has also been mentioned by the respondents that the Hon'ble Apex Court in various judgements has held that delay deprives the relief and the applicants cannot seek the retrospective revival of a cause of action which ceased to operate in the year 1989, a principle laid down by the Apex Court in P.S.Sadasivaswamy case reported in 1995 (1) SCC 152. The respondents also seek support from the judgement of Hon'ble the Supreme Court in the case of Bhoop Singh, JT 1992 (3) SC 322 contending that a judgement in another case does not give a cause of action to another employee/applicant.

4. We have also heard the rival contentions of the learned counsel of the parties and have carefully gone through the records.

5. The main issue which we have to decide in this case is whether this OA is hopelessly barred by limitation, as contended by the respondents. We start from the point that the applicants in this OA are similarly placed vis-a-vis the applicants who got the higher pay scale of Rs. 1350-2200 w.e.f. 1.1.1986 on the strength of the orders of the Cuttack, Hyderabad, Lucknow and Ernakulam Benches of this Tribunal because the respondents have not controverted this contention of the applicants and the fact that the applicants are also DEOs 'B' as the applicants in the OAs before these Benches of Tribunal were. Having established this, we should now examine whether the present OA is hit by laches and delay.

6. The learned counsel for the respondents relied on the case of Bhoop Singh Vs. Union of India reported in JT 1992 (3) SC 322 and the judgement dated 27.8.1998 of the High Court of Judicature for Rajasthan, Jaipur Bench in the Civil Writ Petition No. 1922/1998 Union of India Vs. The Central Administrative Tribunal, Jaipur and Ors. We do not think these help the cause of the respondents because of the special facts and circumstances of this case.

7. The learned counsel for the applicants has also drawn support from a number of cases. The order of the Cuttack Bench of this Tribunal dated 6.4.1992 has been made part of the OA as Ann.A2. The question of the

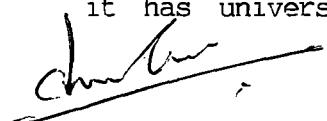


application being barred by limitation was examined in the said order and overruled, *inter alia*, also on the ground that fixation of pay is a continuing cause of action. Relying on the judgements of the Apex Court in the cases of Purshottam Lal, AIR 1973 SC 1088 and Laljee Dubey, AIR 1974 SC 252, the Hon'ble Vice Chairman of the Cuttack Bench accepted the argument on behalf of the applicant in that case that there could not be two effective dates for revision/fixation of pay scales of similarly placed employees and held that all the applicants (working in the DOC) should be given the pay scale of Rs. 1350-2200 w.e.f. 1.1.1986 as was being enjoyed by Electronic Data Processing staff working in the Railways. The Apex Court dismissed the Review Petition No.1145 of 1994 in SLP(C) No.5526 of 1994 against the said order on merits vide its order dated 28.9.1994 (Ann.A3). It will also mean repetition of what we discussed the orders of the various Benches of this Tribunal cited by the learned counsel for the applicants in the pleadings/arguments as all these hold that DEOs 'B' are entitled to the pay scale of Rs. 1350-2200 w.e.f. 1.1.1986 and are also entitled to arrears.

8. In Howrah Municipal Corporation and Ors. Vs. Dr. Basab Dutta and Ors. reported in 1999 (2) SLR page 212, the Lordships of the Calcutta High Court have held that "Article 14 not only strikes at arbitrariness but also guarantees equality before law. If a section of employee has got the benefit of judgment passed by this Court, there is absolutely no reason as to why the Writ Petitioners only because they were not parties in the said Writ Application would be deprived therefrom.

9. In Dhyan Singh Rawat Vs. Union of India, 1999(2) SLJ (CAT-PB) 517, it was held that limitation do not apply if applications are filed by similarly placed persons. The Bench relied on the case of K.C.Sharma reported in 1998 (1) SLJ 54 in which the Apex Court held that application filed by similarly placed persons do not attract the bar of limitation. The Apex Court expressed similar views in Amrit Lal Berry Vs. Collector of Central Excise, 1975 SCC (L&S) 412 and Girdhari Lal Vs. Union of India in SLP (Civil) 14005 of 1992 decided on 3.1.1996.

10. In O.P.Gupta and Ors. Vs. Union of India and Ors. (1995) 31 ATC 84, the Chandigarh Bench of this Tribunal have had an occasion to discuss the theory of "Judgement in rem". While most of the judgements given by the Courts/Tribunals in claims/reliefs of individual nature and are, therefore, "Judgments in personam", the order dated 6.4.1992 in the case of Minaketan Mishra and Ors. decided by the Cuttack Bench of this Tribunal can, in our opinion, be certainly considered as a judgment in rem, meaning thereby that it has universal applicability. The orders of other Benches of this



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Tribunal mentioned in this order as also this order can all be considered judgments in rem. The respondents should, therefore, not only extend the benefit of higher pay scale of Rs. 1350-2200 to the applicants in this Original Application w.e.f. 1.1.1986 but, after satisfying themselves that there are still more DEOs 'B' in the DOC who are similarly placed and have not been extended the pay scale of Rs. 1350-2200 w.e.f. 1.1.1986, extend the same to them. A democratic state with justice and equality as goals enshrined in its Constitution does not force people, especially the employees of the state, to approach the Courts/Tribunals to get what their similarly placed brethren have got as a consequence of knocking the doors of Courts/Tribunals. We hope that the respondents will take serious note of our aforesaid observations.

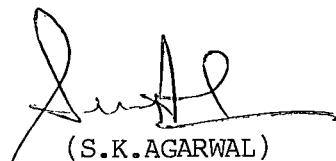
11. As a result, this Original Application succeeds and we direct the respondents to extend the pay scale of Rs. 1350-2200 to the applicants with effect from 1.1.1986 and also to pay the arrears to which the applicants have become so entitled. This exercise may be completed within four months from the date of receipt of a copy of this order.

12. No order as to costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl Member