

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 16/1/2001

OA 431/95

R.M.Lal, at present posted at Carpet Weaving Training Centre, Jhilai District, Tonk.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Textile, R.K.Puram, New Delhi.
2. The Regional Director, Northern Region, DC(H), W.B.No.8, R.K.Puram, New Delhi.
3. The Asstt. Director (A&C), Carpet Weaving Training cum Service Centres, A-4, Sindhi Colony, Kalwar Road, Jhotwara, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.V.B.Srivastava


For the Respondents

... Mr.M.Rafiq

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has sought the following reliefs :-

-  "i) By an appropriate writ, order or direction, the respondents may kindly be directed to give benefit of Pay Fixation in the C.C.S. (Revised Pay scale) Rules, 1986 in accordance with the provisions of the O.M.No.7(52)-EIII/88 (Annexure-1) dated 27th May, 1988 issued by the Ministry of Finance Department of Expenditure raising his Basic Pay from Rs.2300/- to

Rs.2360/- on 1.8.87 as given to his similarly situated persons posted in U.P. vide order No.20(1)88/FAC/dated 20.12.88 (Annexure-2) issued by the O/o Development Commissioner (Handicrafts), Field Administrative Cell, Varnasi (U.P.).

- ii) By an appropriate writ, order or direction the respondents may kindly be further directed to make payment of pending Transfer TA Bill for Rs.2406/- and T.A. Bills for the amount of Rs.6646/- immediately. Further, 10 days unavailed joining period may also credited in E.L. account.
- iii) By an appropriate writ order or direction the respondents may kindly be further directed to make payment of arrears accumulated on account of his pay fixation in the Revised Pay Scales Rules 1986 with interest thereon @18% per annum."

2. Case of the applicant is that he has been under the administrative control of the Development Commissioner (Handicrafts), New Delhi, since 1976. His basic pay was fixed at Rs.2200/- per month w.e.f. 1.1.86. He claims that in April, 1991 he came to know that in terms of the order No.7(52)/E-III/86 dated 27.5.88, issued by the Ministry of Finance, the pay of his similarly placed colleagues, who had joined the department in the month of August, 1976, was fixed at a higher level as compared to the applicant. As soon as he came to know about this order of the Ministry of Finance, he submitted his representation on 1.6.91 and has followed it up right upto 7.11.94. The department, however, has not responded the same. This has put the applicant at a disadvantage, whereas similarly situated persons posted in ~~the~~ offices <sup>other than</sup> the Northern Region have been granted the benefit of this pay fixation.

3. MA 444/95 was also filed by the applicant. In that MA, point was stressed that the aforesaid order of the Ministry of Finance dated 27.5.88 had not been circulated by the respondents to the Northern Region

and hence he could not avail the benefits. Thus, the applicant has been discriminated <sup>against</sup> and this act of the respondents is stated to be unjust, unreasonable and in violation of Articles 14 and 16 of the Constitution of India.

4. In respect of his further claim, the applicant stated that he was ordered for shifting the Carpet Weaving Training Centre from Luni to Dundara. After shifting the office, he submitted his transfer TA bill for Rs.2406/- but the same has not been paid to him. It has further been submitted that payment of his various TA bills amounting to Rs.6646/- has not been made so far and he is being denied of his legitimate dues.

5. In the reply filed by the respondents it has been stated that as per the order of the Ministry of Finance dated 27.5.88 the government employees were afforded an opportunity to switch over to the revised pay scales as recommended by the Fourth Central Pay Commission, should they so desire. It was made abundantly clear in that letter that the last date for exercising this option for switching over was 31.8.88. The respondents have specifically denied that this letter of Ministry of Finance was not circulated in the Northern Region. The applicant has admittedly requested for refixation of his pay through an application dated 1.6.91 i.e. about three years after the expiry of the deadline, which was 31.8.88. The O.M. dated 27.5.88 is neither secret nor confidential and the applicant's plea that he did not come to know of it in time is baseless. He cannot make a claim at such a belated stage to file option to switch over <sup>to</sup> the revised pay scale. Since the date of 31.8.88 for exercising option was the deadline, the applicant has no case.

6. In respect of the shifting of Centre from Luni to Dundara, it is stated by the respondents that it was only a case of shifting of an office and not of transfer and the applicant has no ground to claim transfer allowance. <sup>regards</sup> <sup>these</sup> the TA Bills, have not been accepted by the competent

authority on the ground of having become time barred.

7. We have heard the learned counsel for the parties.

8. During the oral submissions made before us, only the issue involving for pay fixation was argued on either side. No arguments were advanced by the learned counsel for the applicant in respect of the transfer allowance and TA claims. In any case, these two matters have no consequential relationship with the main relief sought by the applicant i.e. in respect of his pay fixation. These become subject of plural remedy, which cannot be prayed for through one OA.

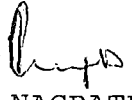
Consequently, we do not feel inclined to interfere in these two matters.

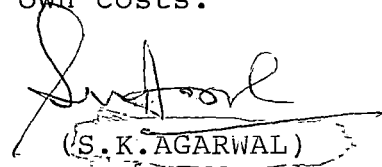
9. On the subject of pay fixation, the learned counsel for the applicant has only reiterated what has been stated in the written submissions regarding applicant's inability to exercise option for the pay fixation earlier than April, 1991 as he had no occasion to become aware of the Ministry of Finance orders dated 27.5.88. This stand has been rebutted by the learned counsel for the respondents, who argued that the applicant's contention that the said orders of the Ministry of Finance were not circulated in the Northern Region, had no substance as similarly placed employees in the Northern Region had availed of the benefit arising out of that order. The learned counsel for the respondents vehemently opposed the application on the ground of limitation since the cause of action arose only in 1988 and even if the ground taken by the applicant was to be considered, he became aware in April, 1991. Even with respect to that time, the application is barred by limitation.

10. We have carefully considered the rival contentions. We are not inclined to accept the plea of the applicant that the order of the Ministry of Finance dated 27.5.88 had not been circulated to all the Regions. However, we find even with respect to April, 1991, when the applicant claims to have come to know of the said order of May, 1988, the present application has been badly delayed and attracts

the provisions of Section 21 of the Administrative Tribunals Act, 1985. This application is, therefore, liable to be rejected on this ground alone.

11. We, therefore, dismiss this OA as barred by limitation. parties are left to bear their own costs.

  
(A.P.NAGRATH)  
MEMBER (A)

  
(S.K.AGARWAL)  
MEMBER (J)