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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 09.02.2000

OA No.129/1996

Indermal Jalutharia s/o Shri Benaramji aged 50 years, resident of 3148, Palsania Road, Nasirabad.

.. Applicant

Versus

1. The Union of India through the Director General, Department of Posts, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General, Southern Circle, Ajmer.
4. The Superintendent, RMS, J-Division, Ajmer.

.. Respondents

Mr. Arvind Soni, proxy counsel to Mr. Mahendra Shah, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

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

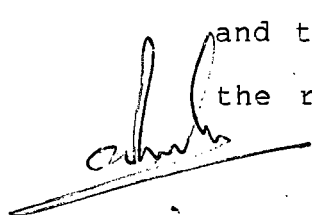
Hon'ble Mr.N.P.Nawani, Administrative Member

ORDER

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

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following relief:

"the impugned orders dated 2.2.95 and 19.12.95 Annexures A/1 and A/2 be declared illegal, invalid and the same may kindly be quashed and set aside and the respondents be further directed to make payment



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of arrears."

2. The case of the applicant, in the nutshell, is that the applicant qualified the examination of LSG 1/3 quota held on 15.2.1981 and working as LSG Sorting Assistant w.e.f. 4.10.1983 and his pay has been fixed in the LSG cadre at Rs. 425/- as on 4.10.1983 and after the 4th Central Pay Commission the pay was fixed as on 1.1.1986 at Rs. 1440/- with date of next increment on 1.3.1986 whereas Shri M.P.Tyagi, junior to the applicant in the gradation list has been fixed at Rs. 1480/- as on 1.1.1986 with date of next increment on 1.3.1986, which act was illegal and against the provisions of existing circular etc. It has also been stated by the applicant that similarly situated persons have approached this Tribunal by filing OA No. 304/1988 (subsequently registered as OA No.1025/92 on account of transfer from Jodhpur to Jaipur Bench) and OA No. 967/1992 and, therefore, the applicant is also entitled to the relief given to the applicants in the aforementioned OAs. He wants that the same pay fixation as done for his junior above and hence the present Original Application.

3. The official respondents in their reply raised some preliminary objections that the Original Application is hopelessly barred by limitation. They have admitted that the applicant was appointed as Sorting Assistant in the Department earlier than Shri M.P.Tyagi. The LSG was the Circle cadre till 13.12.1985 and thus the alleged difference of pay dates back to more than a decade and, therefore, the Original Application is barred by limitation. They have contended that it will not be

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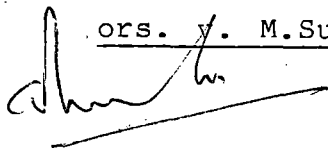
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in the interest of justice to disturb the entire set-up after a period of 12-13 years and the Original Application deserves to be dismissed.

4. We have heard the learned counsel for the parties and have also perused the material on record.

5. The main ground taken by the applicant for stepping up of his pay is that Shri M.P.Tyagi, who is admittedly junior to him, has been given the benefit of higher pay fixation and since the pay of a senior could not be fixed at a level lower than his junior, he deserves to get the same fixation as his juniors. Further, it has also been contended on his behalf that in a number of OAs, as cited by him, this Tribunal has granted stepping up of pay in a number of cases and he being similarly situated, should be granted the same relief in terms of FR 22-C.

6. The controversy raised in this OA is similar to the one that has been considered by this Bench of the Tribunal in a number of Original Applications, like the order dated 1.2.2000 in OA No.356/93, common order dated 3.12.1999 in OAs No. 577/95, 574/95, 86/1996, 576/95 and 575/95, order dated 3.12.1999 in OA No.315/1996 and order dated 4.1.2000 in OA No.161/1995, are directly applicable on the present case. The law in this regard has now been clearly settled by Hon'ble the Supreme Court in the cases of D.G.Employees State Insurance Corporation and Anr. v. B.Raghava Shetty and Ors. reported in (1995) 30 ATC 313; Union of India and anr. v. R.Swaminathan and ors. reported in 1997 SCC (L&S) 1852 and Union of India and ors. v. M.Suryanarayana Rao, reported in (1998) 6 SCC 400 and



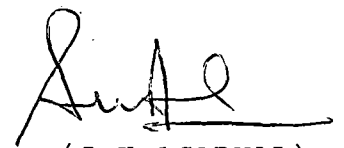
we have decided the aforementioned OAs after a careful perusal of these judgments of the Apex Court.

7. In view of the discussions in paragraphs 5 and 6 above, the Original Application does not stand and is accordingly dismissed with no order as to costs.



(N.P. NAWANI)

Adm. Member



(S.K. AGARWAL)

Judl. Member