

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 10-1-2000

OA No.361/97

Chander Bhan S/o Shri Hardeva Singh, resident of Plot No.55, Brijvihar Colony, Jagatpura, Jaipur.

.. Applicant

Versus

1. Union of India through the Joint Secretary, Ministry of Industries, Department of Industrial Development, Udhog Bhawan, New Delhi.
2. Salt Commissioner, Office of the Salt Commissioner, Lavan Bhawan, 2-A, Lavan Marg, Jhalana Doongari, Jaipur.

.. Respondents

Mr. M.M.Bharathan, counsel for the applicant

Mr. S.S.Hasan, 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 that respondents may be directed to grant the higher pay scale of Assistant of Rs. 1640-2900 to the applicant w.e.f. 1.1.1986 as given to other similarly placed persons pursuant to the judgment dated 9.8.1994 alongwith pay fixation benefits and arrears of salary as also revised retiral benefits with 24 percent interest.

2. That the applicant is working as a regularly appointed Assistant is not disputed. It is also not disputed that a number of Assistants in the office of the Salt Commissioner, Jaipur have been given the higher pay scale of Rs. 1640-2900 in pursuance of the orders of this Tribunal. However, the respondents in their reply have stated that only

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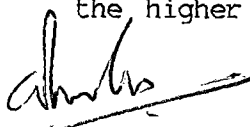
those Assistants in the office of Salt Commissioner are entitled to the benefit who were either applicants in OA No.152/91 decided on 9.8.1994 or subsequently joined in the Contempt Petition and since the present applicant was not party to the OA and Contempt Petition he is not entitled to the relief sought in the present OA.

3. We have heard the learned counsel for the parties and have perused the material on record including the reply submitted by the respondents and the rejoinder to that reply.

4. The controversy raised in this OA is exactly similar to what was examined in considerable details while arriving at a decision in OA No.152 of 1991 by this Bench of the Tribunal. The said order dated 9.8.1994 has been affirmed by the Apex Court vide its order dated 1.5.1995. Subsequently, this Bench of the Tribunal in which one of us was a member, had allowed the higher scale of Rs. 1640-2900 to the applicants in OAs No. 313/1997 and 204/1997 disposed of by a common order dated 5.7.1999.

5. We are of the opinion that the first relief sought by the applicant is squarely covered by the orders of this Tribunal as mentioned above and the applicant being similarly situated is entitled to grant of higher pay scale of Rs. 1640-2900 of the grade of Assistant in the office of the Salt Commissioner. In fact, we feel that the respondents should have taken the orders passed by this Bench of the Tribunal as judgments in rem and extended the benefits to all similarly placed Assistants in that organisation, rather than force them to approach this Tribunal individually or in groups to obtain the same benefit. We hope that this will at least be done now.


6. During arguments, the learned counsel for the applicant pleaded that unlike in the earlier OA No.152 of 1991 decided on 9.8.1994 where the higher scale of Rs. 1640-2900 was allowed notionally w.e.f. 1.1.198

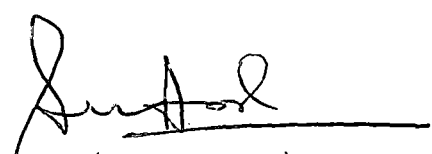


and actually from a date not later than 24.9.1990 (one year prior to the date of filing of the application), the applicant herein should be allowed actual benefit of the higher pay scale three years prior to the date of filing of the present application. In support of this contention, he cited two judgments of Hon'ble the Supreme Court. In Jaidev Gupta v. State of H.P. and Anr. reported in (1997) 11 SCC 13, the Apex Court while not allowing difference in wages from 1971 held that the appellant was entitled to difference of wages from May 1986, that is three years preceeding to the date of approaching CAT. In State of Punjab and Ors. v. Devinder Singh and Ors. reported in (1998) 9 SCC 595 decided on 21.7.1997, Hon'ble the Supreme Court held the arrears payable in respect of the period prior to the filing of the writ petition limited to 3 years. We have gone through the judgments of the Apex Court and in view of the principle evolved in these judgments, we are of the opinion that the applicant is entitled to the higher pay scale of Rs. 1640-2900 notionally w.e.f. 1.1.1986 and actually from a date three years prior to the filing of this Original Application i.e. 27.8.1994.

7. The Original Application is accordingly allowed and the respondents are directed to grant the applicant pay scale of Rs. 1640-2900 notionally w.e.f. 1.1.1986 and actually w.e.f. 27.8.1994. Consequential revision of pension may also be granted along with other revised retiral benefits as admissible. Interest @ 12% will also be paid on the difference between what has been paid and the revised payments, including arrears of pension, from the date of retirement to the date the difference of amount is paid. The above direction may be complied with within a period of <sup>four</sup> ~~two~~ months of receipt of a copy of this order.

8. No order as to costs.

  
(N.P. NAWANI)  
Adm. Member

  
(S.K. AGARWAL)  
Judl. Member