

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.398/2000

Date of order: 20.1.2003

1. Pradeed Kumar Sharma, S/o Sh.P.L.Sharma, R/o A-44, Old Vidyadhar Nagar, Jaipur.
2. Vratin Kumar Sharma, S/o Sh.M.P.Sharma, R/o 92/181, Durga Path, Agarwal Farm, Mansarovar, Jaipur.
3. Sunil Kumar, S/o Sh.S.R.Gupta, R/o B-34, Suraj Nagar (West), Ajmer Road, Jaipur.

All presently working as Data Entry Operator in C/o Central Excise Comm., Jaipur.

...Applicants.

Vs.

1. Union of India through Controller General of Accounts, Mini. of Finance, Deptt. of Expenditure, Lok Nayak Bhawan, New Delhi.
2. Pay & Accounts Officer, Central Excise & Customs, NCRB, Statue Circle, Jaipur.

...Respondents.

None present for the applicants.

Mr.Gaurav Jain, proxy of Mr.N.K.Jain, counsel for respondents.

CORAM:

Hon'ble Mr.A.P.Nagrath, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE Mr.M.L.CHAUHAN, JUDICIAL MEMBER.

The applicants three in numbers have filed the present application praying for the grant of pay scale of Rs.1150-1500 w.e.f. 1.1.1986 alongwith arrears instead of 11.9.89.

2. The case of the applicants ^{is} ~~are~~ that they were initially appointed in the year 1985 on the post of Key Punch Operator and they were fixed in the pay scale Rs.260-400 with special pay Rs.20/- per month. Consequent upon the report of the IV Pay

Commission which came into force w.e.f. 1.1.86 where upon the pay scale of the applicants as Key Punch Operator Rs.950-1500 and special pay of Rs.40/- per month was allowed to them till such time the matter is not gone into by the Committee constituted to look into the anomalies. The Govt vide order dated 16.7.91 (Annex.A3) revised the pay scale of the applicant by granting them the pay scale Rs.1150-1500 w.e.f. 11.9.89. The applicants made joint representation against the grant of the pay scale w.e.f. 11.9.89 vide their letter dated 16.3.2000 (Annex.A6). The main contention of the applicants in this representation was that they should also be extended the benefit of the judgment of this Tribunal in O.A No.357/95 decided on 25.11.99 as this also pertained to Data Entry Operators of Census Department and this Tribunal has directed the respondents to extend the revised pay scale to the applicant w.e.f. 1.1.1986 and also to pay arrears to which the applicant have become so entitled. The respondents vide their letter dated 11.7.2000(Annex.A1) rejected the representation of the applicants on the ground that a case was filed by a DEO of the Pay & Accounts Office, Central Excise Commissionerate, Hyderabad in CAT, Hyderabad invoking CGA as respondent No.1 and communicated vide letter dated 7.12.98 that the case may be treated as closed in the light of the aforesaid communication. Feeling aggrieved by the action of the respondents, the applicants have filed the present O.A claiming for the aforesaid relief.

3. The respondents have contested the case by filing reply affidavit. On merit, it was contended that it is within the discretion of the Govt to grant pay scale to the employees from a particular date and the respondents have also averred that the order revising the pay scale of the applicants w.e.f.

11.9.89 was issued in the year 1991 whereas the O.A was filed some time in the year 2000, i.e. nine years after issue of the order which clearly shows that the O.A is barred by limitation and also suffers from delay and laches. Thus, the respondents have prayed for dismissal of the O.A on this ground alone.

4. During the course of arguments, the Division Bench came across two sets of rulings, one granting the benefit of revised pay w.e.f. 1.1.86 while the other granted the pay scale w.e.f. 11.9.89, hence, the matter was referred to the Larger Bench. The Larger Bench vide order dated 26.11.02, while answering the question referred to in paras 26 and 27, held as under:

"Having considered all the material on record, we answer the question referred to us as follows:

The Data Entry Operators in the Group 'A' in the department of Census, Govt of India, were entitled to the pay scale Rs.1150-1500 w.e.f. 1.1.1986 as per the recommendations of the IV Pay Commission and not from 11.9.1989 when the revised pay structure was given effect to."

The other objections taken by the respondents in their reply have not been considered by us. The matter shall be placed before the Division Bench, who shall be free to take decision on other points."

Thus, the matter has now been placed before us for deciding other point involved in this O.A.

5. We have heard the learned counsel for the respondents. None appeared on behalf of the applicant.

6. The only contention put forth by the learned counsel for the respondents relying on the judgment of the Apex Court in the case of Bhoop Singh vs. UOI & Ors, (1992) 3 SCC 136, submitted that the present application is barred by limitation

and also suffers from delay and laches as the order revising the pay scale to the applicants w.e.f. 11.9.89 was issued in 1991 whereas the present application has been filed in the year 2000 i.e. 9 years after issue of the order. In case the applicants had any grievances against the order, they should have approached the Tribunal within the limitation period as prescribed in Sec.21 of the Administrative Tribunals Act, 1985.

7. We have given our thoughtful consideration in to the matter and are of the view that the present application cannot be thrown on the ground of delay and laches. Admittedly, the pay scale of Data Entry Operator/Key Punch Operator was revised w.e.f. 11.9.89 and order in this behalf was issued on 11.7.91 (Annex.A3). The case of the applicants is that they should be extended the benefit of the judgment rendered by this Bench in O.A No.357/95 decided on 25.11.99 which also relates to the grant of revised pay scale in respect of Data Entry Operators of Census Department w.e.f. 1.1.86. As already stated above, the judgment was delivered on 25.11.99 and the applicants made joint representation immediately thereafter vide their letter dated 16.3.2000 (Annex.A6). This representation was rejected by the respondents vide letter dated 11.7.2000 (Annex.A1). A perusal of Annex.A1 reveals that the representation was not rejected on the ground of delay and laches but on the ground of some decision of CAT, Bench Hyderabad. Thus, it does not lie in the mouth of the respondents to contend that the application is time barred. It may be noticed here that in similar such matters, the various Benches of the CAT, has extended the benefit of the revised pay scale to Data Entry Operators w.e.f. 1.1.86 instead of 11.9.89, as was earlier granted to them by the Government. Thus, according to us, it is highly inequitable if the similar benefit is denied to the applicants as according

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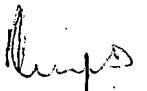
to us there cannot be two effective date for revision/fixation of pay scale of similarly placed employees working under the same Govt. If a section of employee has got the benefit of judgment passed by various Benches of the Tribunal, there is absolutely no reason as to why the applicants should be denied such benefit especially when the Larger Bench vide its order dated 26.11.02 held that the applicants are entitled for revision of pay scale w.e.f. 1.1.86. In this behalf it will be relevant to quote the decision of the Constitution Bench in the case of K.C.Sharma & Ors. Vs. UOI & Ors., 1998(1) SLJ 54. The facts of the case are perimateria to the issue involved in this case. In that case, the applicants who were employed as Guard in the Northern Railways between 1980 and 1988 were aggrieved of the notification dated 5.12.88 whereby average emoluments in respect of running allowance was reduced. This notificated dated 5.12.88 was considered by the Full Bench in its judgment dated 16.12.93 in O.A No.395-403 of 1993 and connected matters and the said notification so far as they gave retrospective effect to the amendment were held to be invalid. On the basis of the decision of Full Bench, O.A No.774/94 was filed before the Principal Bench, Central Administrative Tribunal, thereby claiming the benefit as given by the Full Bench. The said O.A was dismissed in limine in view of the fact that the application was hit by limitation and the Tribunal refused to condone the delay. The Constitution Bench vide its judgment while setting aside the order of the Tribunal, allowed the appeal and the delay in filing the O.A was condoned and held that the applicants are entitled to similar relief. The decision cited by the learned counsel for the applicant in the case of Bhoop Singh (supra) is not applicable in the facts and circumstances of the case.

8. In view of what has been stated above, the application is allowed and we direct the respondents to extend the pay scale to the applicants w.e.f. 1.1.1986 and pay the arrears to which the applicants have become so entitled be paid to them within 4 months from the date of receipt of a copy of this order.

9. No order as to costs.


(M.L. Bhauhan)

Member (J)


(A.P. Nagrath)

Member (A)