

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 81 of 2004
Original Application No. 471 of 2004

Jabalpur, this the 26th day of October, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Original Application No. 81 of 2004 -

Wasim Ullah Khan,
S/o. Late Sh. S.U. Khan, 47,
Ashok Vihar, Shakti Bhawan Road,
Rampur, Jabalpur - 482 008.

.... Applicant

(By Advocate - Shri M.N. Banerjee)

V e r s u s

1. Union of India,
through the Secretary, Ministry of Finance,
Govt. of India, New Delhi.

2. Chief Commissioner of Income Tax, Aaykar Bhawan,
Hoshangabad Road,
Bhopal.

3. Commissioner of Income Tax,
Napier Town, Jabalpur. Respondents

(By Advocate - Shri Terence Borrows on behalf of Shri B.da.Silva)

2. Original Application No. 471 of 2004 -

Gurdeep Singh Garha, S/o. Ranjeet Singh,
Age about 37 years, R/o. 199, Ravindra
Nagar, Adhartal, Jabalpur.

.... Applicant

(By Advocate - Shri M.N. Banerjee)

V e r s u s

1. Union of India,
through the Secretary, Ministry of Finance,
Govt. of India, New Delhi.

2. Chief Commissioner of Income Tax, Aaykar Bhawan,
Hoshangabad Road,
Bhopal.

3. Commissioner of Income Tax,
Napier Town, Jabalpur. Respondents

(By Advocate – Shri Terence Borrows on behalf of Shri B.da.Silva)

Common ORDER (Oral)

By M.P. Singh, Vice Chairman –

1. As the facts of both the aforesaid cases are identical and the issue involved and grounds raised are common, both these OAs are being disposed of by this Common order for the sake of convenience.

2. The reliefs claimed in both the OAs are as under :

OA No. 81/2004 –

“i. Grant pay scale of 1350-2200 (pre-revised) to applicant w.e.f. 1.9.1999,

ii. Pay arrears of pay w.e.f. 1.9.1999 i.e. the date of regularization as applicant was performing duties of Data Entry Operator since 1989 i.e. much before date of regularization even through on daily wages followed by on contract basis.”

OA No. 471/2004 -

“i. Grant pay scale of 1350-2200 (pre-revised) to applicant w.e.f. 1.7.1999,

ii. Pay arrears of pay w.e.f. 1.7.1999 i.e. the date of regularization as applicant was performing duties of Data Entry Operator since 1989 i.e. much before date of regularization even through on daily wages followed by on contract basis.”

3. The brief facts of the cases as stated by the applicants are that the applicants have been appointed initially as Data Entry Operators on daily wages as their names were sponsored by the Employment Exchange. The respondents vide order dated 3rd September, 2002 have regularized the services of the applicant in OA No. 81/2004 w.e.f. 1.9.1999 and in the case of the applicant in OA No. 471/2004 w.e.f. 1.7.1999. Both of them were regularized as Data Entry Operators Grade-A in the pay scale of Rs. 4000-100-6000/- in compliance with the orders of the Tribunal and the Hon'ble High Court of MP. According to the applicants the order dated 29th October, 2002 issued by the Chief Commissioner

of Income Tax, 13 Tax Assistants who were graduates at the time of initial appointment as Data Entry Operators Grade-A in the pay scale of Rs.1200-2040/- (pre-revised) were placed in the pay scale of Rs. 1350-2200/- (pre-revised), later on revised to Rs. 4500-7000/-. The applicants made representations to the effect that they may also be allowed the same benefits as has been granted in the cases of 13 Tax Assistants, as they were also having the graduation degree at the time of their initial appointment. They are entitled for the same pay scale with effect from 1.9.1999 and 1.7.1999 respectively. The representations of the applicants were rejected by the respondents. Hence, these Original Applications.

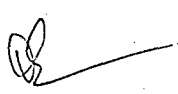
4. The respondents in the reply in the case of OA 81/2004 have stated that the contention of the applicant that he may also be placed in the scale of Rs. 1350-2200/-, as he is similarly placed to the 13 other officials who were granted the pay scale of Rs. 1350-2200/-, is mis-conceived. The officials at serial Nos. 1 to 6 & 8 were LDCs who were absorbed as Data Entry Operators on qualifying the prescribed test, while the officials at Serial Nos. 7 & 9 to 13 were appointed as Data Entry Operators on the basis of qualifying the prescribed test. Thus the applicant cannot consider ^{himself} ~~himself~~ as a similarly placed candidate. The respondents further stated that "the various CAT directions in OA No. 30/1997 (Chennai Bench) and OA No. 850/2000 (CAT, Jabalpur bench) on the basis of which the scale of Rs. 1350-2200/- to DEO Grade-A vide order No. 29.10.2002 was granted, have also held the applicability to such officials/employees already appointed upto 1989 i.e. before restructuring of the cadre of DEO. The officials who were regularly appointed upto 1989 and were graduates have been granted the scale of Rs. 1350-2200. Those appointed later have not been granted the scale of Rs. 1350-2200/- but the scale of Rs. 1150-1500 prescribed for DEO Grade-A. Thus, the claims of the applicant for the scale of Rs. 1350-2200 w.e.f. 1.9.1999 and arrears therefrom are baseless".

5. We have carefully considered the rival contentions made on behalf of the parties and perused the records. In these cases the question for consideration before us is grant of higher pay scale of Rs. 1350-2200/- to the applicants w.e.f. 1.9.1999 and 1.7.1999 respectively. It is settled legal proposition by the Hon'ble Supreme Court that the grant of higher pay scale to a particular category of class/individual, is concern of the expert body like the

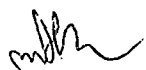
Pay Commission. In the case of Union of India and Anr. Vs. P.V. Haribaran and Anr., 1997 SCC (L&S) 838, the Hon'ble Supreme Court held that the Tribunal should not interfere with the fixation of the pay scales unless a clear case of hostile discrimination is made out.

6. In view of the settled legal proposition by the Hon'ble Supreme Court, no order can be passed by this Tribunal to grant higher pay scale as claimed by the applicants in these Original Applications. However, in the facts and circumstances of the cases, we direct the applicants to submit a fresh detailed representations to the respondents within one month from the date of receipt of a copy of this order. If the applicants complies with this, the respondents are directed to consider the fresh representations filed by the applicants and also treat these OAs as part of the representations and take a decision by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of such representations from the applicants.

7. Accordingly, both these Original Applications stand disposed of. No costs.


(Madan Mohan)
Judicial Member

"SA"


(M.P. Singh)
Vice Chairman