

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : INDORE

Original Application No.394 of 2002

Indore, this the 15th day of January, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Gopalkrishna S/o Dharamraj Raichur,
Aged 58 years, Occupation - Service,
R/o 58, Ambedkar Nagar, C/o Lalchand Verma,
Indore

- Applicant

(By Advocate - Ku.Vandana Kasrekar)

Versus

1. Union of India through Secretary,
Ministry of Commerce, Nirman Bhawan,
New Delhi-110001.
2. Secretary to Govt. of India, Deptt. of Supply,
Nirman Bhawan, New Delhi-110001.
3. Director General of Supplies & Disposals,
Deptt. of Supply, Govt. of India, Jeevandara,
Sanad Marg, New Delhi.
4. Director, Directorate of Quality Assurance,
Deptt. of Supply, Govt. of India, Ahmedabad - Respondents

(By Advocate - Smt.S.R.Waghmare)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

By filing this Original Application the applicant has sought for a direction to set aside the order dated 5.3.2002 and also declare that the order dated 19.12.1996 passed in O.A.757/1990 (Non-Gazetted Technical Staff Association & another Vs. Union of India & others) (Annexure-A-2) passed by the Calcutta Bench of this Tribunal is a 'judgment in rem' and the applicant is, therefore, entitled to pay scale of Rs.550-750 during the period 13.5.1982 to 31.12.1985; and Rs.1600-2660 w.e.f.1.1.1986. He has also sought direction to fix his pay in the revised scale of pay and also grant him arrears with interest at the rate of 18% thereon.

2. The brief facts of the case are that the applicant was initially appointed to the post of Examiner of Stores

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(Engineering) vide order dated 7.12.1970 in the pay scale of Rs.210-425 which was further revised to Rs.425-700 by the Third Pay Commission. The applicant thereafter was promoted as Assistant Inspecting Officer on 25.12.1985 in the pay scale of Rs.650-1200. As per recommendations of the Third Central Pay Commission the pay scale of Senior Draughtsman and Examiner of Stores in the Inspection Wing of the Directorate General of Supplies and Disposals ^{were} was identical i.e. Rs.425-700. Pursuant to the decision of Calcutta Bench of the Tribunal in OA 458/1986 (Sunil Kumar Bhowmik and others Vs.Union of India)dated 3.7.1987, the pay scale of the post of Sr.Draughtsman was revised to Rs.550-750 w.e.f. 13.5.1982 but the scale of pay of the post of Examiner of Stores was not revised. Therefore, Non-Gazetted Technical Staff Association Calcutta Circle and others filed O.A.No.757/1990 before the Calcutta Bench of the Tribunal, and the Tribunal vide its order dated 19.12.1996 directed the respondents to grant pay scale of Rs.550-750 w.e.f.13.5.1982 to 31.12.1985 and ^{It was further directed to fix the pay} pay scale of Rs.1600-2600 w.e.f. 1.1.1986 ^{notionally} w.e.f. 13.5.1982 and actual benefits w.e.f.1.11.1983 to the Examiners of the Stores. According to the applicant the Government has implemented the aforesaid order dated 19.12.1996 passed in OA 757/1990 in respect of 32 Examiners of Stores in Calcutta Circle of DGS&D only. Despite the fact that the said order is applicable to all similarly placed Examiners of Stores in Inspection Wing of DGS&D, the respondents did not extend the benefit of the aforesaid judgment to the applicant. He submitted a representation to the respondents to extend the same benefit. As the same was not replied, the applicant filed O.A.No.756 of 2001 before this Tribunal. The Tribunal vide its order dated 22.1.2002 directed the respondents to decide the representation within three months. In compliance to that order, the respondents have decided his representation vide impugned order dated 5.3.2002 rejecting the claim of the applicant. Hence he has filed this OA claiming the aforesaid reliefs.

3. Heard both the learned counsel for the parties. The learned counsel for the applicant has stated that the present case is fully covered by the number of decisions given by different co-ordinate Benches of the Tribunal including Calcutta Bench, Ahmedabad Bench, Principal Bench, Patna Bench, Bangalore and Hyderabad Benches. She has also drawn our attention to the order passed by the Principal Bench of the Tribunal in O.A.No.711 of 2002 decided on 27.2.2003 (T.K.Chanda Vs.Union of India & another) in which all these judgments have been discussed and also the order of Hon'ble High Court of Gujarat which has upheld the decision of Ahmedabad Bench of the Tribunal. The learned counsel has also drawn our attention to para 21 of the order of Principal Bench in OA 711/02 whereby the actual monetary benefits have been restricted to the period of three years immediately preceding the filing of those OAs. She has stated that though this OA was filed by the present applicant in the year 2002, the applicant has earlier approached this Tribunal in OA 756/2001 which was disposed of vide order dated 22.1.2002, as mentioned in para 2 above. She has, therefore, submitted that the applicant should be granted the actual monetary benefits for the period of three years immediately preceding the filing of OA 756/2001, which was filed on 30.10.2001.

4. On the other hand, the learned counsel for the respondents states that the Ahmedabad Bench of the Tribunal has granted the arrears of pay only for one year prior to filing of the OA and the writ petition filed against the said order was dismissed by the Hon'ble Gujarat High Court. She has, therefore, submitted that the Tribunal may grant the arrears of pay to the applicant only for one year prior to filing of the present OA.

5. We have considered the rival contentions of the learned counsel of the parties. We find that the order of

Ahmadabad Bench of the Tribunal which was upheld by the Hon'ble Gujarat High Court has been considered in the order passed by the Principal Bench of the Tribunal in OA 711/2002 and the Principal Bench has granted arrears of pay three years prior to filing of the OAs. We, therefore, find that the present OA is fully covered by the order of the Principal Bench in OA 711/2002 (T.K.Chanda Vs. Union of India & anr.) . We are, therefore, of the considered view that the benefit given by the Principal Bench of the Tribunal in OA 711/02 should also be extended to the present applicant.

6. In the result, the O.A. is allowed. The impugned order dated 5.3.2002 is quashed and set aside. The respondents are directed to grant the applicant revised pay scale of Rs.550-700 from 13.5.1982 and Rs.1600-2660 w.e.f.1.1.1986 with consequential benefits. The applicant will be entitled for fitment of his pay notionally with annual increment in the higher scale from 13.5.1982 and the corresponding replacement scale w.e.f.1.1.1996 but the actual monetary benefits will be restricted to the period of three years immediately preceding the filing of OA 756/2001 - i.e. from 30.10.01 . The respondents shall ensure that the arrears of pay and allowances calculated as above shall be drawn and disbursed to the applicant within a period of three months from the date of receipt of a copy of this order.

No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

rkv.

*Filed
on
12.1.04*

पूरांकन सं. ओ/व्या.....जयपुर दि.....
प्रति दि.....
(1) सचिव, जयपुर
(2) अध्यक्ष, जयपुर
(3) अध्यक्ष, जयपुर
(4) अध्यक्ष, जयपुर

Bojimala
30/1/04

Shrinani V. Karvekar
Shri S.R. Waghmare