CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 904/2002
Original Application No. 40/2002
Original Application No. 448/2002
Original Application No. 304/2002

Jabalpur, this the 17th day of February, 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN
HON'BLE SHRI G.SHANTHAPPA, MEMBER (J)

OA No. 904/2002

Jasbir Singh Bhasin & 8 others ...Applicants

OA No. 40/2002

Atulya Verma & 42 others ...Applicants

OA No. 448/2002

Kulbir Singh Nandra ...Applicant

OA No. 304/2002

A.Venkata Ramana & Anr. ...Applicants

-versus-

Union of India & Others. ...Respondents

Appearance: Shri S.Paul, Counsel for the applicants in all the O.As.

Shri S.P.Singh, Counsel for the respondents in the O.As.

ORDER (ORAL)

By M.P.Singh, Vice-Chairman:

Since the issue involved in all the OAs is common and facts and grounds raised are identical, for the sake of convenience, these OAs are being disposed of by this common order.

2. O.A. No. 40/2002 will be treated as a leading case, in which the applicants have claimed the following reliefs:

i) Set aside the impugned order dated 3.1.2002.

ii) Command the respondents to extend the benefit of order passed by Lucknow Bench in OA No. 150/01 and other similar cases decided by various Benches of the Tribunal in favour of the applicants.

iii) Consequently direct the respondents to pay the benefits of the pay-scale from 1.1.1986 alongwith arrears and other consequential benefits including the interest on delayed payment.

3. The brief facts of the case in OA No. 40/2002 are that the applicants were appointed between May 1990 and February 1994 as Junior Key Punch Operator. Earlier the said post was in the pay scale of Rs. 260-400/- which was revised on the recommendations of the IV Central Pay Commission to Rs. 950-1500/- w.e.f. 1.1.1986. The post of Junior Key Punch Operator was re-designated as Date Entry Operator Gr.A in the scale of Rs. 1150-1500/- w.e.f. 11.09.1989. The pay scale of Senior Key Punch Operator was Rs. 330-560/- which was further revised to Rs. 1200-2040/- w.e.f.1.1.1986. This post was also re-designated as Data Entry Operator Grade-B w.e.f. 11th September, 1989. The pay scale of Data Entry Operator Grade-B was also revised to Rs. 4500-7000/-, on the recommendations of the Vth Central Pay Commission.

4. Keeping in view the nature of duties and responsibilities attached to the post of Junior Key Punch Operator, the said post was designated as Data Entry Operator Grade-A and the post of Senior Key Punch Operator was re-designated as Data Entry Operator Grade-B. According to the applicants these posts are totally identical without there being any difference. Thus, the incumbents of both the posts are entitled to enjoy the same scale without any difference. According to the applicants, they have been re-designated as Data Entry Operator Grade-A w.e.f. 11.09.1989 and granted the pay scale of Rs. 1150-1500/- whereas they should have been re-designated as Data Entry Operator Grade-B in the pay scale of Rs. 1350-2200/- w.e.f. 1.1.1986.

Central Administrative Tribunal

5. Subsequently, an O.A. was filed by the Data Entry Operators claiming the benefit of pay scales of Rs.1350-2200/- in the Hyderabad Bench of this Tribunal. Similarly placed persons in Census Department, Ministry of Home Affairs have filed OA No.957/1990 in Hyderabad Bench of this Tribunal. The said O.A. was allowed on 9th July, 1992. An S.L.P. was filed by the Registrar General of Census Department against the said order. The Jabalpur Bench of this Tribunal also took a view in OA No. 681/99 followed by the orders of the Lucknow Bench of this Tribunal. The applicants are claiming the benefit of the order of Lucknow Bench of this Tribunal in OA No.150/01 decided on 9.10.2001. Since they have not been given the said benefit in view of the order of the Lucknow Bench, the applicants have filed the present O.A.

6. Respondents have filed their reply stating that while recommending a consolidated pay scale of Rs.1350-2200/- for the Electronic Data Processing Staff of Railway, the IVth Pay Commission also recommended and suggested that the Dept. of Electronics should examine and suggest the re-organisation of existing Electronic Data Processing post and prescribe uniform pay-scale and designation in consultation with the Department of Personnel. Accordingly, Seshgiri Committee has been set up by the Department of Electronics in November, 1986 which recommended to classify key Punch Operator/Data Entry Operators into five pay scales on the pattern of those in the Ministry of Railway. Govt. of India has not accepted the recommendation and decided to introduce the following revised pay scales to the Data Entry Operators in other Ministries and Departments w.e.f. 11.09.1989:-

GRADE-A	:	Rs. 1150-1500
GRADE-B	:	Rs. 1350-2200
GRADE-C	:	Rs. 1400-2300
GRADE-D	:	Rs. 1600-2660
GRADE-E	:	Rs. 2000-3500

The respondents have further stated that the judgement given by the Hon'ble Hyderabad Bench of this Tribunal in OA No. 957/90 is applicable to the Census Department only hence the said judgement cannot be implemented in respect of the applicants in the present case.

7. As regards the judgement of the Lucknow Bench of this Tribunal in OA No. 150/2001, the respondents have stated that the matter of pay fixation was referred to Government of India . The Govt. of India has intimated that the pay fixation done was irregular and directed the respondents to rectify the same immediately by re-fixing the pay of the applicants in OA No. 150/2001 in the respective grades. The matter regarding extending benefit of decision of Lucknow Bench of this Bench as also Jabalpur Bench to all the DEO's of this department was referred to Government of India, Ministry of Finance. The Govt. of India has conveyed their decision to implement the judgement in respect of the applicants only and has also intimated that it is not found feasible to extend the benefit to the non-applicants.

8. We have heard the learned counsel for the parties.

9. Learned counsel for the applicants has drawn our attention to catena of judgements given by the various Benches of this Tribunal. He has also drawn our attention to the judgement of the Lucknow Bench of this Tribunal decided on 9.10.2001 in OA No. 150/2001. He has further drawn our attention to the judgement of Hyderabad Bench of this Tribunal in OA No. 1103/2002 decided on 23.9.2003 and also the judgement of Madras Bench of this Tribunal in OA No. 329/2002 decided on 13.9.2002. He has also submitted that the judgement given by the Madras Bench has already been implemented. Therefore, the same benefits should be extended to the applicants. On the other hand

the learned counsel for the respondents vehemently opposed the grant of extending the benefit of Orders of Lucknow Bench and Hyderabad Bench ofthis Tribunal. He has stated that in the present case, the applicants are working as D.E.O. Group-B, which is in the lower scale of Rs. 1150-1500(Pre-revised), accordingly they are not entitled for the benefit of the said judgements. He has also given a copy of the letter issued by the Controller General of Defence Accounts, Computer Cell, R.K.Puram, New Delhi dated 16.02.2004. According to the letter, the judgement given by the Hyderabad Bench in similar matter in OA No. 371/2002 has been challenged before the Hon'ble High Court of Andhra Pradesh by way of Writ Petition, which is still pending adjudication.

10. Learned counsel for the respondents has also raised the ground of limitation. Accordingly, he has submitted that the applicants are claiming the benefit of revision of higher pay scale dated 1.1.1986 but they have approached this Tribunal in the year 2002 i.e. after a period 16 years. Therefore, the O.As are barred by limitation. Learned counsel for the applicants, on the other hand, states that as per the law laid down by the Hon'ble Supreme Court, the period of limitation starts from the date of a similar judgement given by any court/Tribunal. He has, therefore, submitted that the applicants are seeking the benefit of the judgement of the Lucknow Bench of this Tribunal delivered on 9.10.2001. Thereafter, the applicants have made representation, which has been rejected by the Govt. vide their letter dated 3.1.2002 and this O.A. has been filed in March, 2002, Therefore, the O.A. is not barred by limitation.

11. We have very carefully considered the rival contentions of the parties and we find that the issues raised by the applicants in the present OAs have been fully discussed in the order of the Lucknow Bench of this Tribunal dated

9.10.2001. The issue raised by the learned counsel for the respondents that the applicants are working in the lower pay scale as DEOs Gr.A in the pay scale of Rs. 1150-1500/- and are thus not entitled for the pay scale of Rs. 1500-2000/-, has been discussed in the judgement of Hyderabad Bench of this Tribunal. ~~Therefore~~, the ~~other~~ contention of the learned counsel for the respondents that the judgement given by the Lucknow Bench of this Tribunal and by the Hyderabad Bench of this Tribunal ~~is~~ are applicable only to the applicants ~~as~~ the judgement ~~is~~ are in personem and not in rem, is not tenable and is accordingly rejected in view of the judgement of the Hon'ble Supreme Court rendered in the matter of K.G. Sharma & Ors.Vs. UOI & Ors, (1996) 6 SCC 721

We are fully satisfied that the present O.A. is covered in all fours by the judgements of the Lucknow Bench, Hyderabad Bench and Madras Bench of this Tribunal, referred to above,

12. In view of the above discussions, the O.As are allowed and the respondents are directed to give effect to the pay scale w.e.f. 1.1.1986 instead of 11.09.1989 to the applicants. The applicants are also entitled to the same benefit as extended to the applicants in OA No. 150/01 decided by the Lucknow Bench; OA No. 1103/02 decided by the Hyderabad Bench and OA No. 329/2002 decided by the Madras Bench. The above directions should be complied with by the respondents within a period of three months from the date of receipt of a copy of this order.

13. A copy of this order be placed in the files of all the other OAs by the Registry. Registry is further directed to ~~always~~ with issue the Memo of Parties of all the OAs alongwith the certified copy of this order.

— Sd —
(G.Shanthappa)
Judicial Member

— Sd —
(M.P.Singh)
Vice Chairman

skm