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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR  
....

Original Application No. 98 of 2000

Jabalpur, this the 11<sup>th</sup> day of February, 2004

Hon'ble Shri M. P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Member (J)

Manoranjan Poddar,  
s/o late Maharaj Poddar,  
Q.No. III/18, Ayakar Colony,  
Kotra Sultanabad,  
Bhopal - 462 003.

...Applicant

(By Advocate: Shri S.K.Nagpal)

-versus-

1. Union of India through  
Secretary,  
Ministry of Home Affairs  
Rehabilitation Division (Settlement)  
Jaisalmer House,  
New Delhi.
2. The Commissioner of Income Tax,  
Ayakar Bhawan, Hoshangabad Road,  
Bhopal (MP).
3. The Deputy Commissioner of Income Tax (Audit),  
Ayakar Bhawan,  
Hoshangabad Road,  
Bhopal (MP).

...Respondents

(By Advocate: None)

O R D E R

By G. Shanthappa, Member (J) -

The above O.A. has been filed by the applicant seeking the following reliefs:

- a) to fix the pay of applicant in the scale of Rs. 425-640/- w.e.f. 1.1.1973 to 31.12.1985 as made applicable to similarly employed Middle School Teachers of erstwhile Dandakaranya Project;
- b) to fix the pay of the applicant subsequently in the pay scale of Rs. 1640-2900/- from 1.1.1986 based on the recommendation of Prod.D.P.Chattopadhyay Commission on Teachers and corresponding

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pay scale from the date of his re-deployment under respondent no. 2 and from 1.1.1996;

- c) to pay all arrears of pay after fixing pay in the above revised scales for the period from 1.1.1973 to the date of actual payment.

2. The brief facts of the case are that the applicant was appointed as Untrained Graduate Teacher in the erstwhile Dandakaranya Project in the scale of Rs. 115-220/- on 1.7.1972. When the Dandakaranya Project was on shrinkage, all the teachers and other staff employed were declared surplus and posted to other departments, the applicant was posted to Income Tax Department as Taxation Assistant. The scale of pay admissible to Middle School Teachers in all other departments under the Union of India was revised to the scale of Rs. 425-640/- on 1.1.1973 and to Rs. 1400-2300/- w.e.f. 1.1.1986. The said scale of pay was not given to the teachers who were working in Dandakaranya Project.

3. Aggrieved by the said act of the respondents, some of the teachers filed a Writ Petition No. MP No. 1734/1982 before the Hon'ble High Court of Madhya Pradesh and got the order in their favour. When the benefit of the said order was not extended to other similarly situate employees, one Smt. Vidya Gupta filed another Writ Petition No. 2709/85 before the Hon'ble High Court of Madhya Pradesh which was transferred to this Tribunal registered as T.A. No. 360/1986. The said case was decided by this Tribunal in favour of the applicant therein. On the basis of the direction of this Tribunal, the pay of the applicant therein was fixed as per Annexure A-3 dated 26.10.1989. The case of the applicant is that since he is also similarly situate, the same benefit shall be given to him.

4. Some of the teachers had approached the Principal Bench of this Tribunal in OA No. 1475/90. The said application was dismissed against which the applicants i.e. Pratima Pal and others approached the Hon'ble Supreme Court by filing a

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Civil Appeal No. 7268/1996. The Hon'ble Supreme Court has granted the relief to the extent of fixation of pay of the Middle School Teachers at the scale of Rs. 425-640/- but they will be paid the salary of Middle School Teachers so long they worked as teachers in the middle school. In compliance with the directions of the Hon'ble Supreme Court the department has issued orders by fixing the pay of the applicants therein in the scale of pay of Rs. 1400-2300/- from 1.1.1986.

5. The applicant had also approached the respondents by submitting a representation as per Annexure A-7 dated 25.08.1998. Since the respondents have not taken any decision on the said representation, the applicant approached this Tribunal seeking the aforesaid reliefs on the basis of the directions of the Hon'ble Supreme Court and various orders passed by the Tribunal. The request of the applicant is to re-fix the pay of the applicant first in the scale of Rs. 425-640/- w.e.f. 1.1.1973 and subsequently in the revised grade of Rs. 1640-2900/- from 1.1.1986 on the basis of recommendations made by National Commission on Teachers headed by Dr. D.P. Chattopadhyay as he has already completed 12 years of service, in the grade of UGT/Middle School Teacher.

6. Respondents have filed their reply denying the averments made in the O.A. However, they have admitted that the Hon'ble Supreme Court and other benches of this Tribunal have granted the similar relief to other similarly situate employees. They have also admitted the service of the applicant who is presently working in the Income Tax Department. The specific contention of the respondents is that on the basis of the recommendations of the <sup>National</sup> Pay Commission, the applicant had been allowed senior scale w.e.f. 1.1.1986 at Rs. 1400-2600/-. Since the relief has already been granted to the applicant, there is no need to grant further fixation

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of pay as prayed for in the O.A. The pay of the teachers, who worked as Middle School Teachers and High School Teachers, was fixed under the said recommendations of the National Pay Commission, which reads as under:-

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|-----|---|--------------|
| (1) | Primary school teacher  | Rs.1200-2040 |
| (2) | Senior Scale (After working 12 years as Primary teacher)  | Rs.1400-2600 |
| (3) | Selection scale (After working in Senior scale for 12 years and attainment of qualification laid down for TGT allotted as senior scale. | Rs.1640-2900 |

Respondents have taken the contention that the application is barred by limitation as the applicant is asking for the pay scale after a lapse of so many years. If the applicant was aggrieved, he ought to have challenged the pay scale in which he was placed from rehabilitation to Income Tax Department from surplus cell. Reviewing this issue at this stage is a belated one and the application is liable to be dismissed.

7. We have heard the learned counsel for the applicant and perused the materials available on record including the representation submitted by the applicant. Since none is present on behalf of the respondents and this matter is an old one pertaining to the year 2000, we are disposing the same by invoking the provisions of Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

8. The facts are admitted on either side that the applicant worked as middle school teacher in the erstwhile Dandakaranya Project and subsequently after treating his service as surplus he was re-deployed as Taxation Assistant in the Income Tax Department. The similarly situated teachers approached this Tribunal's Principal Bench by filing an OA No. 1475/1990 which was dismissed. Aggrieved by that order, they challenged the same before the Hon'ble



Supreme Court in Civil Appeal No. 7268/1996. The said Civil Appeal was allowed by the Hon'ble Supreme Court. Therefore, the applicant being similarly situate employee asking for the same relief as granted by the Hon'ble Supreme Court and various benches of this Tribunal.

9. In the facts and circumstances of the case when the facts relating to service of the applicant are admitted, we are convinced that the applicant is entitled for the relief, as prayed for, on par with Smt. Vidya Gupta as per order passed in T.A. No. 360/86 by this Tribunal. The O.A. is accordingly allowed with a direction to the respondents to fix the pay of the applicant in the scale of pay of Rs. 425-640/- w.e.f. 1.1.1973 to 31.12.1985 and to re-fix his pay in the scale of Rs. 1400-2300/- w.e.f. 1.1.1986 to 14.4.1988 and thereafter fix the pay of the applicant on his joining the Income Tax Department including revision of pay from 1.1.1996. The respondents are further directed to pay him all the arrears of pay and allowances and consequential benefits after re-fixation of his pay w.e.f. 1.1.1973 till the date of actual payment. There will be no order as to costs.

(G. Shanthappa)  
Member (J)

(M.P. Singh)  
Vice Chairman

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13.2.01  
6.00 P.M.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....  
पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय जबलपुर, जबलपुर
- (2) आवेक श्री/श्रीमती/श्री.....के कार्डसल SK Naypal
- (3) प्रत्यक्ष श्री/श्रीमती/श्री.....के कार्डसल B. dashner.
- (4) वंशपाल, कोषा. जलपुर, जबलपुर

सूचना एवं आवश्यक कार्रवाई हेतु  
उप निदेश 3/2/01