

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 307 of 2000

Jabalpur, this the 12th day of February, 2004

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

P.S. Rai, S/o. Shri T.R. Rai,
aged about 55 years, Asstt.
Foreman, Research & Development Section,
Vehicle Factory, Jabalpur, R/o. 187,
Alok Nagar, Adhartal, Jabalpur (MP). ... Applicant

(By Advocate - Shri V. Tripathi)

V e r s u s

1. Union of India, through its Secretary, Ministry of Defence (Production), New Delhi.
2. Ordnance Factory Board, through its Chairman, 10-A, Khudiram Bose Marg, Calcutta.
3. General Manager, Vehicle Factory, Jabalpur. ... Respondents

(By Advocate - Shri B.Ja.Silva)

O R D E R

By G. Shanthappa, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

(ii) to pay the pay scale of Rs. 205-280 to the applicant being a Diploma in Engineering w.e.f. 3.11.1971.

(iii) to fix the pay of the applicant in the pay scale of Rs. 205-280/- and all subsequent pay fixation be done on point to point basis till date by counting the pay scale of Rs. 205-280/-.

(iv) to grant pay scale of Rs. 550-750/- from 1.1.1973 as the applicant was a Diploma holder in Engineering and was entitled under Para 79 of the 3rd Pay Commission report duly accepted by the Government.

(v) to provide all consequential benefits to the applicant as if he is drawn the pay scale of Rs. 550-750 from 1.1.73 onwards."

2. The applicant has admitted that his reliefs Nos. iii and iv mentioned above are not maintainable in view of the

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orders of this Tribunal in OA No. 12/1989 passed on 19th May, 1999. The said reliefs are liable to be rejected on the ground of res-judicata. The present applicant had filed OA No. 12/1989 seeking the relief for pay scale of Rs. 550-750/- from 13.05.1982. The said OA was dismissed on merits. Accordingly, the reliefs Nos. iii and iv are rejected on the ground of res-judicata.

3. The brief facts of the case as stated by the applicant are that the applicant was initially appointed as Draughtsman in Vehicle Factory, Jabalpur on 3.11.1971 in the pay scale of Rs. 150-240/- with pre entry qualification of three years diploma in Mechanical Engineering after matriculation with Science subjects. The respondents vide order Part-II No. 468, dated 12.3.1972 fixed the pay of the applicant at Rs. 175/- per month in the pay scale of Rs. 175-240/- from the date of his initial appointment by Vehicle Factory, Jabalpur certifying that the applicant was in possession of 3 years diploma in mechanical engineering at the time of appointment. The IIInd Central Pay Commission had recommended the pay scale of Rs. 205-280/- for the post of Draughtsman who were in the possession of 3 years diploma in Engineering after matriculation as reported in Para-76 (iii) of the IIInd Central Pay Commission report in Chapter 14, IV Draughtsman category. Para 76 (iii) provides that "the level is generally that of Rs. 205-280/- but it is Rs. 180-380/- in the CPWD and Rs. 205-380/- in the Railways. Direct recruitment to this level is from amongst diploma holders in engineering (3 years course after matriculation)." The date of effect of IIInd Central Pay Commission was 1.9.1965. The applicant further submits that the pay of the individuals who were in the merit list was given Rs. 205-280/- and were designated as Senior Draughtsman. Out of the said Draughtsman trainees



5 individuals were given higher initial basic of Rs. 175/- per month. The applicant is asking for the benefit under the IIInd Central Pay Commission. The grievance of the applicant is that the respondents have made wrong fixation of pay at Rs. 425/- per month with effect from 11.7.1977 on promotion to the post of Senior Draughtsman in the pay scale of Rs. 425-700/-. The applicant has referred the decision of the Hon'ble Supreme Court in the case of M.R. Gupta Vs. Union of India, AIR 1996 SC 669, on the ground that there is no delay in approaching the Tribunal for grant of pay fixation, after lapse of so many years. A fresh cause of action arise every month when he is paid his monthly salary on the basis of a wrong computation made contrary to the rules. The applicant is restricting his prayer only in respect of the pay scale of Rs. 205-280/- with effect from 3.11.1971 and also subsequent pay fixation, on point to point basis. Initially the respondents have not properly fixed the pay of the applicant. Aggrieved by this he has filed this Original Application claiming the aforesaid reliefs.

4. The respondents have filed their reply denying the averments made in the Original Application and they have also raised the ground that the applicant is not maintainable on two grounds, one is, delay in filing and the another is on the ground of principles of res-judicata. The applicant has filed the above OA on 07.04.2000 asking relief for grant of pay fixation with effect from 3.11.71. This Tribunal has no jurisdiction to decide the issue prior to three years from the date of the establishment of the Tribunal.

4.1. The applicant was appointed to the post of Draughtsman with effect from 3.11.1971. He was in the pay scale of



Rs. 150-240/- . At that time there was also the grade/post of Senior Draughtsman in the pay scale of Rs. 205-280/- .
Draughtsman/ ^{grade} was a feeder grade to the post of Senior Draughtsman. The applicant was appointed to the lower post of Draughtsman and his pay was rightly fixed in the pay scale prescribed for the post of Draughtsman. The pay scale of 205-280/- was the pay scale of Senior Draughtsman and hence there was no question of the pay of the applicant being fixed in that pay scale. The respondents submitted that it is not correct to say that either 2nd Pay Commission had recommended the pay scale of 205-280/- for the Draughtsman or 3rd Pay Commission had recommended the pay scale of Rs. 550-750/- . The pay scale of Rs. 205-280/- prevalent during the 2nd Pay Commission was the pay scale of Senior Draughtsman and the employees including the applicant who were appointed to the post of Draughtsman cannot claim to a higher pay scale just because they were holding some higher qualification. The 3rd Pay Commission recommended the scale of Rs. 330-560/- to Draughtsman. For 50% of Senior Draughtsman it recommended 330-560/- pay scale and for the other 50% Senior Draughtsman it has recommended the pay scale of Rs. 405-700/- . Hence the 3rd Pay Commission had never recommended the pay scale of Rs. 550-750/- for either Draughtsman or Senior Draughtsman. Since the applicant was appointed on 3.11.1971 he is not entitled for the recommendation of the Pay Commission.

4.2. The applicant had earlier approached this Tribunal in OA No. 12/1989. Earlier also the Tribunal has dealt with the same reliefs as prayed in this OA. Hence the applicant is not entitled for any relief as claimed in this OA and the OA is liable to be dismissed on the ground of principles of res-judicata. This Tribunal has elaborately decided

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earlier the same issue including the law of limitation. The respondents have produced the order of this Tribunal in OA No. 12/1989 filed by the applicant. Accordingly the respondents have requested for dismissal of this OA as not maintainable.

5. Heard the advocate for the applicant and the advocate for the respondents and perused the records and the judgments carefully.

6. We are deciding the OA only in respect of the relief regarding pay scale of Rs. 205-280/- with effect 3.11.1971 and other consequential reliefs. The grievance of the applicant is that the respondents have wrongly fixed the pay scale of the applicant as 150-240/- on the date of his initial appointment. The applicant is asking for the reliefs prior to three years of the establishment of this Tribunal. This Tribunal has no jurisdiction to decide the relief in respect of the cause of action arose earlier to 1982. Admittedly the cause of action in this OA arose on 3.11.71. The applicant is also asking ^{for} the relief under the IInd Central Pay Commission which was introduced on 1.1.1973. The applicant joined the service on 3.11.1971. The grievance of the applicant is a belated one, in which he has not explained the delay in approaching this Tribunal. The principles of the case of M.R. Gupta (supra) is not applicable in this case, since this Tribunal has no jurisdiction to decide the issue, where cause of action has arose prior to 1982.

7. Hence we are of the considered view that the application is not maintainable as this Tribunal has no jurisdiction to decide the present issue. Accordingly, we find that the applicant has not made out any case for grant of the



reliefs as claimed in the Original Application. Thus the Original Application is dismissed. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

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

"SA"

*Filed
3/3/04
16/2/04*

*मुद्रित करने वाले के नाम
राज्य न्यायालय
(1) विधायक
(2) विधायक
(3) विधायक
(4) विधायक
मुद्रित करने वाले के नाम
राज्य न्यायालय
विधायक V.Tripethi
विधायक B. Danlwar
मुद्रित करने वाले के नाम
राज्य न्यायालय
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विधायक B. Danlwar*