

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



No.O.A. 350/00680/2015
M.A.350/169/2015

Date of order : 14.09.2017

Coram : Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Shouvik Kumar Parbat, son of late
Sudhendra Nath Parbat, aged about
44 years, working as Copy Holder in
Geological Survey of India, 29, J.L.
Nehru Road, Kolkata-700 016, residing
At 4/196, Gandhi Colony, P.O. Regent Estate,
P.S. Netaji Nagar, Kolkata-700 092

..... Applicants

-Versus-

1. Union of India through the Secretary
to the Govt. Of India, Ministry of Mines,
Shastri Bhawan, New Delhi-110 001;
2. The Director General, Geological
Survey of India, 27, Jawarlal Nehru
Road, Kolkata-700 016;
3. The Deputy Director General
(Personnel), Geological Survey of
India, Central Headquarters,
27, J.L. Nehru Road, Kolkata-700 016;
4. The Secretary to the Govt. Of India,
Ministry of Finance, Department of
Expenditure, North Block,
New Delhi-110 001

..... Respondents.

For the applicant : Mr. S.K. Datta, counsel
For the respondents : Mr. P.N. Sharma, counsel

ORDER (ORAL)

Mrs. Manjula Das, Judicial Member

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “8.a) An order quashing and/or setting aside the impugned communication dated 19.06.2013;
- b) An order directing the respondents to consider the case of the applicant i.e. the case of Copy Holder in GSI to grant the Grade Pay of Rs.2800/- in PB-1 with effect from 1.1.2006 with all consequential benefits;
- c) An order directing the respondents to produce/cause production of all relevant records;
- d) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper.”

2. The applicant has also filed an M.A.No.350/169/2015 seeking condonation of delay of about 10 months in filing the O.A.

3. At the outset, the M.A.No.350/169/2015 is taken up for consideration.

4. We have heard Id. counsel for the parties and perused the pleadings and materials placed on record.

5. On perusal of record it appears that the applicant had earlier approached this Tribunal by filing O.A.No.837/1999 seeking direction upon the respondents to consider the case of the applicant for appointment to the post of Copy Holder in view of his application dated 15.12.1998 and not to give any appointment to any other candidate to the post of Copy Holder to the exclusion of the applicant. Said O.A. was allowed by this Tribunal vide order dated 04.08.2006 by directing the respondents to consider the case of the applicant for appointment to the post of Copy Holder with effect from the due date and to give him all consequential benefits as per rules w.e.f. that date. Against the said order of the Tribunal the

respondents of O.A. had filed a Review Application before this Tribunal being R.A.No.34 of 2006 which was dismissed vide order dated 30.11.2016 being devoid of any merit.

6. Ld. counsel for the applicant submits that the applicant had filed a representation dated 08.04.2013 to the Respondent No.3 i.e. the Dy. Director General(Personnel), Geological Survey of India, Kolkata(Annexure A/3 to the O.A.) praying for "step-up of Pay Scale & Pay to the post carrying minimum required qualification of graduation at entry level, as per R/R in GSI, in accordance with the 5th CPC para 43.15 & O.M. No.50(1)/IC/97 dt. 30.05.1997" . Said representation was rejected vide order dated 19.06.2013(Annexure A-4) on the ground of "time barred".

7. In the M.A. for condonation of delay the applicant has stated that due to financial hardship, illness of his elder brother and other domestic reasons he could not file this O.A. in time. He has further stated that as per the extant rules, there is no bar of limitation so far as the administrative decision is concerned, therefore, the delay in filing the O.A. may be condoned.

8. Ld. counsel for the respondents vehemently opposed the submissions made by ld. counsel for the applicant stating that the applicant has not furnished any reasonable explanation for the delay in filing the O.A. and stated that due to some personal reasons he could not file the O.A. in due time which is completely vague, ambiguous, dubious and enigmatic statement and not maintainable under the rules, therefore, the M.A. for condonation of delay may be dismissed.

9. We have considered the submissions made by ld. counsel for both sides. According to the applicant, he was appointed as Copy Holder in the respondents'



department on 17.05.2007 and his pay was notionally fixed with effect from 16.12.1998 in the scale of pay of Rs.3050-4590 and consequently his pay was fixed with effect from 01.01.2006 in PB.-1 with a Grade Pay of Rs.1900/- . The grievance of the applicant is that his pay has not been fixed properly, therefore, he made a representation to the authority concerned dated 08.04.2013 (Annexure A-3), but that has not acceded to on the plea of being "time barred" . Therefore, the applicant has come to this Tribunal challenging the rejection order dated 19.06.2013(Annexure A-4).

10. In **M.R. Gupta vs. Union of India & Ors. reported in (1995)5SCC-628**, the Hon'ble Apex Court held as under:-

"Application to the extent of proper pay fixation is not time barred although the claim of consequential arrear will be subject to law of limitation."

In the present case, we note that the applicant has claimed fixation of pay with revisions as per Vth and VIth Central Pay Commissions' recommendations.

11. In view of the ratio laid down in the aforementioned judgment of Hon'ble Supreme Court in case of **M.R. Gupta vs. Union of India & Ors. supra**, we deem it proper to condone the delay in filing the O.A.

12. Consequently the M.A. No.350/169/2015 is allowed.

13. So far as the O.A. is concerned, the impugned order dated 19.06.2013(Annexure A-4) is set aside and the matter is remanded back to the respondent authorities, more particularly the Respondent No.3 to reconsider the representation of the applicant dated 08.04.2013 afresh and pass a reasoned and speaking order as per rules within a period of three months from the date of receipt of this order. The decision so arrived at shall be communicated to the

applicant forthwith. If the applicant is not satisfied with the decision taken by the authorities concerned, he may approach this Tribunal further challenging the same.

17. With the aforesaid observations and directions, both the O.A. and the M.A. stand disposed of. No order as to costs.

(Dr. N. Chatterjee)
Administrative Member

(Manjula Das)
Judicial Member

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