

LIBRARY

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/00778/2015
OA 350/00779/2015

Date of order : 6.12.2016

Present: Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

KRISHNA KR. SINGH (OA 778/15)
GLORIA SUSANA TETE (OA 779/15)

VS

UNION OF INDIA & ORS.

For the applicants : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents : Mr.P.Sharma, counsel

O R D E R

Justice V.C.Gupta, J.M.

We have heard the Id. Counsel for the applicants and the Id. Counsel for the respondents.

2. As both the OAs are having similar question of law and fact they are being disposed of by a common order.

3. The applicants are working as Junior Hindi Translator in the Office of Central Excise Department, Kolkata. They claimed parity of upgraded pay on the basis of pay available to the employees working as Junior Hindi Translator in the Central Secretariat of Official Language.

4. It is not res integra that the applicants on strength of a judgment delivered by this Bench in OA 912/04 are entitled to upgraded pay of the post of Junior Hindi Translator. As the judgment of this Tribunal is upheld not only in the High Court but also the Apex Court has upheld the judgment of this Tribunal. The relevant portion of the judgment of the Hon'ble Apex Court in Civil Appeal No. 17419/09 is extracted hereunder :

"The respondent in this appeal was working as a Junior Hindi Translator in the office of the Commissioner of Central Excise-I, Kolkata.

(Signature)

He claimed parity of pay with the Junior Translators who were working in the Central Secretariat. In his case also, what we find is that there is no functional distinction as far as the work of these translators is concerned. Therefore, we do not take a different view. The civil appeal is dismissed. There will be no order as to costs. Interim orders will stand vacated."

5. The defence of the respondents is that the applicant is not entitled to get upgraded pay because upgradation of time scale of pay can only be decided by the nodal department of Govt. of India and in this case the nodal department is Department of Expenditure. However, the respondents in para 24 of their reply admitted that the office is following the office memorandum dated 29.3.04 issued vide F.No.7/5/2003/IC, Ministry of Finance, Department of Expenditure. Para 24 of the reply is extracted hereinbelow :

"With reference to the statements and/or allegation and/or averments and/or contention made in paragraph 5.11 of said application it is submitted that the office is following the OM dated 29.3.04 issued vide F.N. 7/5/2003/IC Ministry of finance, Department of Expenditure (Implementation Cell) wherein it has been clarified that the upgrade pay scale approved by the Government are specific to posts in Central Secretariat Official Language Service which cannot be extended to similar post elsewhere.

This further stated here that this is a case of upgradation of pay for the pre-2006. Upgradation of time scale of pay can be decided only by the Nodal department of Government of India. In this case the nodal department is the Department of Expenditure. The matter has been brought to the notice of the said department by the final decision is yet to be received by, this office. This Commissionerate being the subordinate office cannot take any decision in the matter."

The copy of the office memorandum dated 29.3.04 has been annexed by the applicant in the OA as Annexure A/10 which reads as under :

"Sub :Placement of the post of Junior/Senior Translators ad Assistant Director (OL) in the pay scales of Rs.5500-9000, 6500-10500 and Rs.7500-12000 respectively in CSOLS – regarding.

The undersigned is directed to say that the Government had considered a proposal regarding upgradation of pay scales of the posts of Junior Hindi Translator, Senior Hindi Translator and Assistant Director (OL) in the Central Secretariat Official Language Service (CSOLS) from the pay scales of rs.5000-8000, Rs.5500-9000 and Rs.6500-10,500 to Rs.5500-9000., Rs.6500-10,500 and Rs.7500-12000 respectively. The upgraded pay scales were approved for these posts notionally w.e.f. 1.1.96 with the actual financial benefits being allowed w.e.f. 11.2.03. It has come to notice of this Department that these pay scales have been extended to similarly designated posts in some organizations outside the CSOLS. It is clarified that the upgraded pay scales approved by the Government are specific to the posts in CSOLS and cannot be extended to similarly designated posts elsewhere. All the concerned departments who have extended these scales unilaterally and un-authorisedly to such posts are directed to

(Signature)

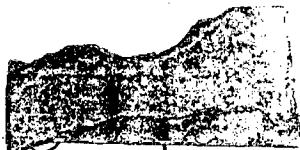
withdraw these scales and place these posts in the otherwise applicable pay scales. It is further directed that responsibility for this lapse may be fixed."

Ld. Counsel for the applicant also relied upon the same and wants the benefit under the same OM.

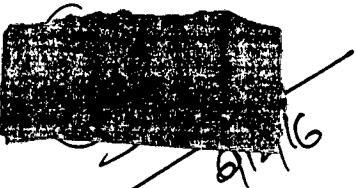
6. Moreover, the judgment rendered in OA 912/04 which has been upheld by the Hon'ble Apex Court and another judgment delivered by this Tribunal in OA 617/11 dated 23.11.15 bind the respondents and they cannot be permitted to travel beyond that.

7. Hence in view of the admitted fact the matter is finally disposed of with the direction to the respondents that the claim of the applicants be disposed of in accordance with office memorandum dated 29.3.04 read with the judgment of Hon'ble Apex Court in Civil Appeal No. 17419/09, extracted hereinabove, within two months from the date of order.

8. The OAs are therefore finally disposed of. No order is passed as to costs.



(JAYA DAS GUPTA)
MEMBER (A)



(JUSTICE VISHNU CHANDRA GUPTA)
MEMBER (J)

in