CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 350/01398/2017 Date of order: 18.12.2017

Present : Hon'ble Ms. Manjula Das, Judicial Member

Asit Kumar Patra,
Son of Late Haradhan Patra,
Worked as Administrative Officer,
Regional Meteorological Centre,
4, Duel Avenue, Alipore,
Kolkata - 700 027, and residing
At Village & P.O. - Joynagar,
Police Station - Panchla,
District - Howrah, West Bengal,
Pin - 711302.

.. Applicant

- V E R S U S -

1. Union of India,
Represented by the Secretary,
Ministry of Earth Sciences,
Prithvi Bhavan, Opp. India Habitat Centre,
Lodhi Road,
New Delhi - 110 003.

2. The Director General of Meteorology,
Indian Meteorological Department,
Mausam Bhawan, Lodhi Road,
New Delhi - 110 003.

3. The Deputy Director General of Meteorology,
Regional Meteorological Centre,
Indian Meteorology Department,
4, Duel Avenue, Alipore,
Kolkata - 700 027.

4. The Director-in-Charge,
Position Astronomy Centre,
Indian Meteorological Department,
Block - AQ, Plot No. 8, Sector - V,
Salt Lake, Mahish Balthan,
Kolkata - 700 091.

.. Respondents

For the Applicants : Ms. T. Das, Counsel

For the Respondents : Mr. R. Halder, Counsel

O R D E R (Oral)

Per Ms. Manjula Das, Judicial Member:

Being aggrieved with the impugned order dated 3.7.2017 issued by respondent No. 2, the applicant has approached before this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 seeking the following relief:-

"(a) An order do issue quashing the office order dated 3.7.2017 issued by Asstt. Meteorologist (Estt.) for DGM.
(b) An order do issue directing the respondent to grant the pay scale of Rs. 7500-12000/- and PB-II + G.P. Rs. 4800/- of 6th CPC in favour of the applicant with effect from the date of promotion I.e. 18.8.2000 in the light on judgment pass by Hon'ble High Court, Guwahati in WP (C) No. 912/2010 with all consequential benefits.
(c) An order do issue declaring the respondents produce record of the case in the time of hearing;
(d) Cost of the application;
(e) Any other relief(s) that your Honour deem fit and proper."

2. Ms. T. Das, Ld. Counsel for the applicant submits that the applicant retired from service on superannuation as an Administrative Officer Gr. 'B' Gazetted in the Indian Meteorological Department under Ministry of Earth Sciences.

3. According to the applicant his pay was wrongly fixed in the scale of pay as Rs. 6500-200-10500/- instead of Rs. 7500-12000/- as prescribed by 5th Central Pay Commission.

4. According to the Ld. Counsel, similarly situated person Purushottam Dass approached the Hon'ble High Court by filing WP(C) No. 912/2010 and the Hon'ble High Court was pleased to allow his Writ Petition through judgment dated 18.5.2015 granting the pay scale of Rs. 7500-12000/-as per the recommendations of the 5th Central Pay Commission with consequential benefits. It was submitted by the Ld. Counsel that the applicant did make representation before the authority on 12.1.2017 inter-alia stating that the applicant was promoted to the post of Administrative Officer w.e.f. 21.8.2000 and his pay was fixed in the pay scale of PB-2 + GP 4600 (Rs. 6500-10500 pre-revised pay scale under 5th CPC) and his date of retirement wsa 30.4.2011. It was further stated in the representation that the High Court vide its judgment passed in WP (C) No. 912/2010 has granted a pay scale of Rs. 7500-12000/- (pre-revised) as per the 5th Central Pay Commission corresponding pay scale of PB III. The applicant prays before the authority to fix his pay in the light of the decision of the Hon'ble Guwahati High Court.

5. The grievance of the applicant is that without considering his case on merit the Department vide impugned letter dated 3.7.2017 rejected his case by

assigning reason that the judgment referred to in his representation has extended the benefit to the litigant only.

6. Mr. R. Haldar, Ld. Counsel appears on behalf of the respondents and submits that this being an old matter and the applicant retired long ago on 2011 and benefits were to be released from the year 2000, as such, the matter of the applicant is barred by limitation and he is not entitled for the benefits so extended to the petition of the Writ Petition. Moreso, applicant is not similarly situated with the applicant or the Writ Petitioner of the referred cases.

7. I have heard the Ld. Counsel for both the parties, perused the pleadings and materials placed before me and decision relied upon.

8. The very grievance of the applicant is that similarly situated employee one Shri Purushottam Dass, who is under the same respondent and in the same post as the applicant approached before the Central Administrative Tribunal, Guwahati Bench vide O.A. No. 277 of 2006 where the Tribunal dismissed his case vide order dated 18.11.2009. Being aggrieved with the order of the Tribunal the applicant approached before the Hon'ble Guwahati High vide WP(C) No. 912 of 2010 where the Hon'ble High Court vide order dated 18.5.2015 passed the order as herein:

> "12. Even otherwise, the prayer of petitioner needs to be accepted since it is his specific claim that the Officers similarly situated with him in all respects were given the benefits, he had sought for in O.A. 277 of 2006. We have found nothing on record to disbelieve such a claim. Being so, in our opinion, the benefits which were already given to officers who are similarly situated with the petitioner are required to be extended to the petitioner as well.
> 13. Consequently, the prayer made by the applicant in O.A. No. 175/2008 stands accepted and State Respondents are directed to give the petitioner all consequential reliefs in accordance with the established Rules and Procedures."

9. From the exploration of the case of Sri Purushottam Dass as well as the present applicant it is noted that the present applicant Shri Asit Kumar Patra, who is working as Administrative Officer under the Department of Regional Meteorological Centre as like as Purushottam Das the petitioner in WPCT No. 912 of 2010 under the same department initially was appointed as LDC. Thereafter the applicant was promoted to the post of UDC and then Administrative Officer. The applicant repeatedly approached the authority as well

as by making representation dated 12.5.2017 before the respondent authority with a prayer to fix his pay in the pay scale of Rs. 7500-12000/- (pre-revised) and corresponding pay scale under 6th CPC in PB2 + GP 4800 with effect from the date of promotion i.e. on 21.8.2000 as to the benefits extended to one of his collegues Shri Purushottam Das vide judgment of Hon'ble Guwahati High Court. The employee Shri Purushottam Das approached before this Tribunal vide O.A. No. 277 of 2006 with a prayer to grant the salary in the scale of pay of Rs. 7500-12000/- as prescribed under 6th CPC for the post of Administrative Officer which was dismissed by the Central Administrative Tribunal and thereafter being aggrieved approached before the Hon'ble High Court with a prayer for giving relief by allowed to draw his salary in the scale of pay of Rs. 7500-12000/- as his pay was fixed at Rs. 6500-10500/- since the post where he was promoted was to the post of Administrative Officer. Similarly the applicant herein who was promoted to the post of Administrative Officer w.e.f. 18.8.2000 but he was not allowed to draw the salary w.e.f. that date in the scale of Rs. 7500-12000/- rather his pay was fixed at Rs. 6500-10500/-. The applicant did make several representations before the authority to grant him pay scale of Rs. 7500-12000/- + Rs. 4800/- GP but the respondent authorities sat tight over the matter. In such circumstances, the applicant submitted representation dated 12.1.2017 by seeking redressal of his grievances which was, however, rejected vide communication in terms of letter dated 3.7.2017. The basic ground for rejection of the claim of the applicant is that the Hon'ble Guwahati High Court in WPCT No. 912 of 2010 has granted the benefit to the litigants only.

10. Ld. Counsel further draws our attention to another judgment and order dated 30.10.2017 passed in O.A. No. 3409 of 2017 by the Central Administrative Tribunal, Principal Bench whereby following the decision of Hon'ble Guwahati High Court an order was passed. Para 6 of the said order is quoted hereinbelow:-

> "6. We have perused the judgment of the Guwahati High Court. It is applicable to the case of the applicants from all fours. As a matter of fact, the Guwahati High Court has also granted relief to the petitioners therein on the basis of their being similarly situated. The relevant observation are contained in para 12 which reads as under:-
>
> "12. Even otherwise, the prayer of petitioner needs to be accepted since it is his specific claim that the Officers similarly situated with him in all respects

were given the benefits, he had sought for in O.A. 277 of 2006. We have found nothing on record to disbelieve such a claim. Being so, in our opinion, the benefits which were already given to officers who are similarly situated with the petitioner are required to be extended to the petitioner as well."(emphasis supplied)

11. From O.A. No. 3409 of 2017 passed by the CAT, Principal Bench it transpires that the applicant of the said O.A. also was promoted to the post of Administrative Officer Gr. III in the Indian Meteorological Department. Ministry of Earth Science like the present applicant. In the said case the applicants were also promoted as Administrative Officers-III, and the pay of the applicant was fixed in the pay scale of Rs. 9300-34800/- with GP of Rs. 4600/- as per the revised pay scale on the basis of the recommendations of the 6th CPC. The important aspect that the Administrative Officers Grade III was drawing pay in the pay scale of Rs. 7500-12000/- in the IMD (5th CPC) corresponding to the pay scale of Pay Band-2 with grade pay of Rs. 4800/- of 6th CPC, was not considered to the said applicant like the present applicant.

12. In my view, the present applicant in such post cannot be treated differently basing on their pre-revised pay scale which is violative of the principles of law. Further I note that there is no such other question in the granting of the pay scale as extended to the applicant / petitioner in the CAT as well as the Hon'ble High Court. However, reasons has been given while disposing of the representation of the applicant dated 12.1.2017 by stating that regarding grant of pay scale of PB-2 + GP Rs. 4800/- (pre-revised pay scale to consequent upon of judgment of Hon'ble Guwahati High Court in WP (C). 912/2010) has been turned down by the competent authority owing to the fact that as per the said judgment the benefit is to be given to the litigant only.

13. In ***Inder Pal Yadav v. Union of India*** **reported in** ***(1985) 2 SCC 648*** *the Hon'ble Apex Court has held as under:-*

> *" Relief granted by the court has to be given to other similarly situated employees without forcing them to go to Court for similar benefits."*

In ***State of Karnataka v. C. Lalitha*** **reported in** ***(2006) 2 SCC747*** *the Hon'ble Apex Court has held that:*

> *"Service jurisprudence evolved by the Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one*

person has approached the court that would not mean that persons similarly situated should be treated differently."

14. As the respondent Counsel raised a question that the present applicant is not similarly situated with the said Purushottam Das, in the ends of justice I direct the applicant to make a detailed comprehensive representation highlighting his grievances and to establish his case "the issue of being similarly situated" within a period of 15 days from the date of receipt of a copy of this order.

15. On receipt of such representation, the respondent authorities before whom the representation is proposed to be made shall consider the case of the applicant immediately in the light of decision rendered in Inder Pal Yadav v. UOI (supra), State of Karnataka v. C. Lalitha (supra) and Purushottam Das v. Union of India passed in WPCT No. 912 of 2010 as well as Shri Pawan Ballabh Thapliyal and 12 ors. V. U.O.I. & ors. In O.A. No. 3409 of 2017. The entire exercise shall be carried out within four months from the date of receipt of a copy of this order.

16. Needless to mention that if the respondent authorities found the applicant as similarly situated to the applicants/petitioners mentioned hereinabove the said benefits be determined and extended and paid within a period of three months on arriving at a decision by the authority. The decision so arrived at be communicated to the applicant forthwith.

17. With this observation and direction, the O.A. stands disposed of. No costs.

(Manjula Das)
Judicial Member

SP