

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

OA/350/504/2018

Date of Order: 15.05.2018

Coram : Hon'ble Mrs. Manjula Das, Judicial Member

Pallab Kumar Chakraborty, son of late Ranajit Chakraborty, 66,
South Kodalia, Post Office -New Barrackpore, Police Station -
New Barrackpore, District - North 24 Parganas, Pin code -
700131.

-----Applicant.

-Versus-

1. The Union of India, service through its Secretary, Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi - 110001.
2. The Employee's Provident Fund Organization, (Ministry of Labour & Employment, Government of India), service through the Central Provident Fund Commissioner, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi - 110066.
3. The Central Provident Fund Commissioner, Employees' Provident Fund Organization, (Ministry of Labour & Employment, Government of India), Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi - 110066.
4. The Regional Provident Fund Commissioner - I Employees' Provident Fund Organization, Zonal Training Institute, East Zone, 7 Lu-Hsun Sarani, Teriti Bazar, New CIT Road, Kolkata - 700073.

-----Respondents

For the Applicant : Ms. M. Mitra, Counsel
Md. S. Jahan, Counsel
For the Respondents : Mr. G.K Roy, Counsel

O R D E R(Oral)

Per : Mrs. Manjula Das, Judicial Member:

By this O.A, the applicant has prayed for a direction upon the respondent authorities to refix his salary @ Rs. 17,140/- at the Pay Band of Rs. 9300-34800/- with Grade Pay of Rs. 4600/- by providing minimum fitment of Rs. 12,540/- w.e.f 30.05.2009 notionally and financially w.e.f 16.11.2009 and to allow all consequential benefits including arrears without any delay.

2. Heard ld. counsel Ms. M. Mitra and Md. S. Jahan for the applicant. Mr. G.K Roy, ld. counsel for the respondents is also present and heard.

3. Ld. counsel for the applicant submitted that the applicant was appointed to the post of Data Entry Operator (DEO) 'Grade A' on 19.04.2000. Subsequently, vide a Gazette Notification dated 20.05.2009 published on 30.05.2009, Recruitment Rules for Data Processing Assistant under Employees' Provident Fund Organization was introduced by creating a New Cadre with 274 posts of Data Processing Assistant (hereinafter referred to as DPA) under the Employees' Provident Fund Organization. In the said notification the post of DPA was declared as Group C post and scale of pay for that post was mentioned at Pay Band of Rs. 9300-34800/- [Rs. 6500-10500 (Pre revised)] with Grade Pay Rs. 4200/-. It was clearly mentioned in the said notification that the post of DPAs is to be filled up through 100% direct recruitment only, simultaneously it was made clear that the existing DEOs having minimum educational qualification prescribed for the post of DPA with 6 years regular service shall be deemed to have been appointed to the post of DPA from the date of notification.

It is further submitted by ld. counsel for the applicant that subsequently, vide a gazette notification dated 20.03.2010, the Recruitment Rules of DPA, 2009 was amended inter-alia by classifying the post of DPA as a Group 'B' Non Gazetted, Non-Ministerial posts. Ld. counsel for the applicant submitted that the applicant having the minimum requisite qualification for the post of DPA as well as 6 years regular service was allowed to function as DPA on and from 16.11.2009 on completion of necessary formalities. Subsequently, vide Order No. HRD/1(2)2008/implementation of 6th CPC dated 19.05.2010 issued on behalf of Employees' Provident Fund Organization, Grade Pay for the post of DPA was amended by granting Rs. 4600/- in place of Rs. 4200/- w.e.f. 30.05.2009.

Ld. counsel for the applicant further submitted that the applicant made a prayer on 22.07.2014 (Annexure A-5 to the O.A) to the respondent authorities for re-fixation of his salary @ Rs. 17,140/- in terms of rel.

Government orders and requested for removal of anomalies in pay followed by a detailed representation dated 23.03.2018 (Annexure A-7 to the O.A), but received no response from them till date.

Being aggrieved and dissatisfied with such inaction of the respondent authorities, the applicant has approached this Tribunal seeking appropriate reliefs.

4. Md. S. Jahan, ld. counsel for the applicant submitted that some similarly situated employees approached this Tribunal and got order from the Tribunal in their favour. Ld. counsel for the applicant has produced a copy of the order dated 27.07.2016 passed in O.A 165/2013 by the Central Administrative Tribunal, Madras Bench. Ld. counsel also submitted that the order dated 27.07.2016 passed in O.A 165/2013 by the Central Administrative Tribunal, Madras Bench was challenged in the Hon'ble High Court at Madras Bench and the order of the Tribunal dated 27.07.2016 was upheld by the Hon'ble High Court, Madras Bench. Ld. counsel for the applicant therefore submitted that that the applicant in this O.A may also be granted the same benefits as granted to the applicant in O.A 165/2013 as he is similarly circumstanced with the applicant in the said O.A.

5. On the other hand, Mr. G.K. Roy, ld. counsel for the respondents submitted that he is not aware whether the representation filed by the applicant in the year 2014 as well as in the year 2018 have been disposed of in the meantime by the respondents or not. He further submitted that he is also not aware whether the issue has attained finality or not. Therefore, he is not in a position to make any comment.

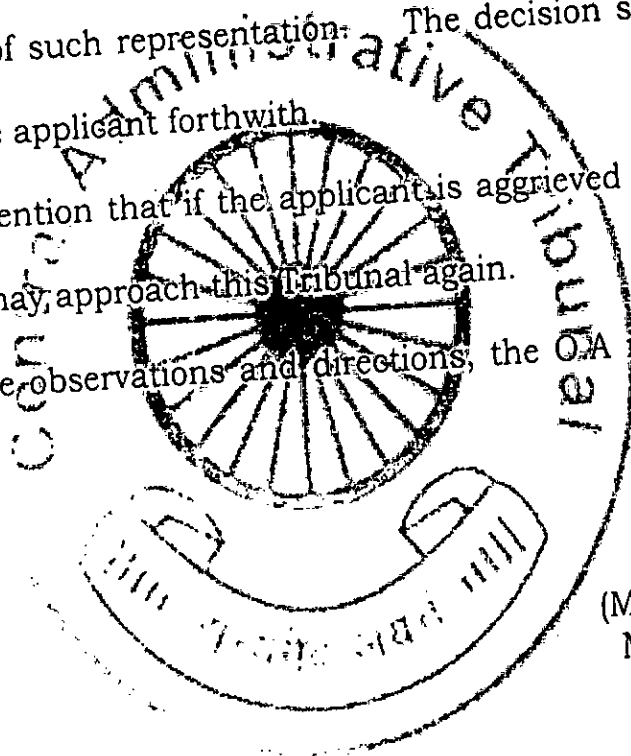
6. Ld. counsel for the applicant prays that the applicant would be satisfied for the present if he is permitted to file a comprehensive representation to the respondent authorities referring on the decision favouring the applicant within a period of 15 days and the competent authority is directed to consider his representation as per rules and regulations governing the field and pass a reasoned and speaking order after giving the applicant an opportunity of being heard.

Ld. counsel for the respondents has no objection to such prayer made by ld. counsel for the applicant.

7. In view of the above, the applicant is given liberty to make a comprehensive representation to the competent authority ventilating his grievances and annexing necessary document and the judgement of the Hon'ble High Court he wants to rely upon within a period of 15 days from the date of receipt of a copy of this order. If such representation is preferred within 15 days, the competent respondent authority shall give an opportunity of personal hearing to the applicant and consider and dispose of his representation keeping in mind the relevant rules and regulations and also the judgement of the Hon'ble High Court within a period of 2 months from the date of receipt of a copy of such representation. The decision so arrived at to be communicated to the applicant forthwith.

Needless to mention that if the applicant is aggrieved by the decision of the authorities, he may approach this Tribunal again.

8. With the above observations and directions, the O.A is disposed of. No costs.



(Manjula Das)
Member (J)