

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.474/2013

Dated this the 16th day of February, 2017

**CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
 HON'BLE MS. B.BHAMATHI, MEMBER (A)**

Sitaram Mahadeo Paunikar,
Aged 61 years, resideing at
Paunikar Niwas, Survey No.21/5,
House No.823, Pagare Mala
Vasahat, Upnagar, Nasik-422006.
Dist.Nasik.
Office Address:- Govt. of India,
Printing Press, Gandhi Nagar,
Nashik-422006.

... Applicant.

**(By Advocate Shri C.K. Bhangoji for Shri R.K. Mendadkar)
 Versus.**

1. Union of India,
 Through its Secretary,
 Department of Urban Development,
 Directorate of Printing,
 B-Wing Nirman Bhavan,
 New Delhi-110108.

2. Government of India,
 Printing Press through its
 Personnel Manager,
 Gandhi Nagar,
 Nasik-422006.

...Respondents.

**(By Advocate Shri V.S. Masurkar)
Reserved on 07.02.2017.
Pronounced on 16.02.2017.**

ORDER

Per: -HON'BLE MS.B. BHAMATHI, MEMBER (A)

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“(a). That this Hon’ble Tribunal be pleased to hold and declare that the impugned communication dated 5-8-2011 issued by the Respondent No.2 herein is bad in law, illegal and liable to be set aside and it be accordingly set aside.

(b). That This Hon’ble Tribunal be pleased to direct the Respondents to reconsider the case of the applicant for fixing Grade Pay of Rs.4200/- in the light of O.M. Dated 30.12.2008 issued through Department of Personnel and Training.

(c). Any other and equitable relief as this Hon’ble Tribunal may deem fit and proper be kindly granted.

(d). Cost of the application be provided.”

2. The applicant's case is that he was promoted to the post of Compositor Grade-II with effect from 17.01.1984 and Compositor Grade-I w.e.f. 01.10.1994. He was promoted on adhoc basis to the post of Section Holder Binding Supervisor from 17.01.1997 and thereafter made regular where he worked till his retirement i.e. on 30.11.2011.

2.1. The applicant has contended that respondents

have wrongly fixed his Grade Pay as Rs.2800/-, which is in the category of highly skilled worker (HSK) Grade-I whereas, his GP ought to have been Rs.4200/- Pay Band-2, as he worked in the category of Section Holder Binding Supervisor i.e. a Supervisory post, in terms of DOP&T OM dated 30.12.2008.

2.2. The respondents have wrongly rejected his case stating that after examining his representation in consultation with the Ministry of Urban Development, Finance Division (R-1) no case of anomaly has been found or no requirement was found to place his case before the Anomaly Committee.

2.3. The applicant has filed a delay condonation petition seeking condonation of delay. He has submitted that the cause of action arose on 05.08.2011 when the impugned order was passed. The applicant retired on 30.11.2011. However, he could not approach the Tribunal earlier as his representation for redressal of his grievance was being pursued with respondents for processing and decision. Hence, the delay of four months in approaching the Tribunal may be condoned.

3. In the reply denying and disputing the

contentions of the applicant, the respondents have contended that prayer in the OA is a stale claim. The OA is suffers from delay and latches and hence liable to be dismissed. They have relied upon the several judgments of the Hon'ble Supreme Court in this connection.

3.1. The respondents have contended that Section Holder in the Press is an intermediary Supervisor. The Section Holder generally assists the Foreman, who has the overall charge of supervision. Section Holder is responsible for the distribution of work among the Bindery staff. The Section Holder acts as a middleman between the Foreman and the worker. The foreman being the senior most supervisor in the Section was granted GP of Rs.4200/- as per 6th CPC. Applicant as Section Holder (HSK Grade-I) being the intermediary placed at the next lower rung of the promotional hierarchy was granted GP of Rs.2800/-. The applicant's case was referred to the Ministry of Urban Development, Finance Division as well as Department of Expenditure, Ministry of Finance. It was held that there was no case of any anomaly.

4. In the Rejoinder, the applicant has reiterated

the contentions of the OA specifically stating that Section Holder Binding Supervisor is a supervisory post as per the Hand Book of the Government of India Presses published by the GoI and the impugned order dated 05.08.2011 has been passed without following the OM dated 30.12.2008. Being a supervisory post the said OM was applicable and he has wrongly been denied his entitlement to GP of Rs.4200/-.

5. We have gone through the O.A. alongwith Annexures A-1 to A-4 and rejoinder filed by the applicant.

6. We have also gone through the Reply alongwith Annexure A-1 and R-1 and Sur-rejoinder filed on behalf of the official respondents.

7. We have heard the learned counsel for the applicant and the learned counsel for the respondents and carefully considered the facts, circumstances, law points and rival contentions in the case.

8. The DoP&T OM dated 2008 reads as follows:-

“Scheme for Joint Consultative Machinery and Compulsory Arbitration for central Government Employees Raising the limit of pay from Rs.8900 to Grade Pay of Rs.4,200 in Pay Band-2 for eligibility.”

Ministries/Departments are aware that the Scheme of Joint Consultative Machinery and Compulsory Arbitration for Central Government employees covers all regular civil employees of the Central Government except inter alia persons in industrial establishments, employed mainly in managerial or administrative capacity, and other employed in Supervisory capacity and drawing salary in scales going beyond Rs.8,900 per mensem vide Clause 1 (c) of the JCM Scheme).

3. With the revision of scales of pay, on the recommendations of the sixth Central Pay Commission, the limit of Rs.8,900 referred to in Para.1 above, requires to be suitably revised. The matter has been examined in consultation with Department of Expenditure. It has been decided that the existing pay limit of Rs.8,900 would correspond to Grade Pay of Rs.4,200 in Pay Band-2 revised on the basis of the recommendations of 6th CPC. Therefore, the Scheme is amended to this extent and Clause 1 (c) of the JCM Scheme may not be read as under:-

“Persons in Industrial establishments employed mainly in managerial or administrative capacity, and those who being employed in supervisory capacity draw salary in scales going beyond Grade Pay of Rs.4,200 in Pay Band-2”.

3. This may be brought to the notice of all concerned.”

9. Applicant has not shown as to how he is covered by para 1 and 2 of the said OM, as para-3 is subject to paras 1 and 2.

10. Further, the claim of the applicant of holding a supervisory position is also based upon the Hand Book of GoI. The Hand Book is not on record. He has relied on the RR's but has not placed the RR's on record.

11. The promotion order of 1997 is also not on record to know the correct designation and whether the word 'supervisor' was part of that designation. There is nothing on record to show that the Section Holder Binding was a supervisory post at the top of the hierarchy. On the other hand the respondents have clearly stated that the Foreman's post is a supervisory post that carry a GP of Rs.4200/- whereas Section Holder works under the Foreman with GP of Rs.2800/- being the next lower rung in the said promotional hierarchy. Hence, it cannot be claimed that applicant's duties and responsibilities were equal to that of Foreman. There are no pleadings to that effect also.

12. As per the OM dated 11.07.2011, it appears that Ministry of Urban Development, Directorate of Printing had duly looked into the issue. The letter reads as follows:-

“ **OFFICE MEMORANDUM**

Subject:- Setting up of Anomaly Committee to settle the Anomalies arising out of the implementation of the Sixth Pay Commission's recommendations.

In reference to this Directorate's O.M. of even No. dated 13.05.2009, the representations

have been received from different presses in reference to the above referred O.M. stating anomalies for the following posts:-

(i) Section Holder (Binding/
composing/machine), (ii) Time Checker
(Bindray), (iii). Head Mechanic
(Printing/Binding), (iv) Deputy Manager,
(v) Assistant Manager (Tech.), (vi)
Assistant Manager (Admn.), (vii)
Cameraman, (viii) Binder, (ix) Darkroom
Assistant, (x) Electrician, (xi)
Compositor Grade-I, (xii) Machine
Attendant, (xiii) Assistant Binder,
(xiv) Assistant Plate Maker, (xv)
Assistant Mechanic (xvi) Copyholder,
(xvii) Carpenter, (xviii) Head Reader,
(xix) Foreman, (xx) Assistant Inspector
Control (xxi) Senior Artist, (xxii)
Artist Retoucher, (xiii) Assistant
Artist Retoucher, (xxiv) Welder, (xxv)
Driver.

The representations have been examined in the Head Quarter in consultation with M/o Urban Development, Finance Division-M/o U.D., Department of Expenditure-M/o Finance as per recruitment. It is regretted that none of the cases has been found as anomaly, as such to be placed before the Anomaly Committee. All concerned may therefore, be apprised of the position accordingly."

13. It appears that applicant's case was considered alongwith employees of applicant's and other categories seeking correction of anomaly and it was decided that the matter was not fit to be placed before the Anomaly committee, since no anomaly could be found.

14. The applicant has stated in his representation

dated 25.10.2010 that he had given representation dated 03.02.2009 followed by six such reminders (none of them are on record), which reads as follows:-

“ I have already given Representation dated 3-2-2009 on the subject cited above followed by successive six Reminders and requested you to issue necessary 6 orders to place me in the Revised Pay Band of Rs.9300-34800 (P-II) with G.P. Rs.4200/- at par with Head Clerk (Jr.)/Head Computer as the post of Section Holder is a Supervisory category as per Recruitment Rules.

It is also stated that Govt. of India Press Nashik has issued Office Circular No.188 dated 14.12.2009 (Copy enclosed) intimating therein the upgradation of Grade Pay of Offset Machineman & D.T.P. Operator (Industrial Categories) from Rs.2800 to Rs.4200/-. Besides the Grade Pay of Binder has been also upgraded from Rs.2400/- to Rs.2800/- with restriction of 50% between highly skilled Grade I & Grade II Binders. In this connection it is stated that I am supervising the Binders Grade-I & II. Hence my Grade pay should be Rs.4200/- considering higher responsibilities.

In the circumstances explained above, I request you kindly to issue necessary orders to place me in the Revised Pay Band of Rs.9300-34800 (P-II) with G.P. Rs.4200/- at the earliest.”

15. There is nothing in the letter to show that his GP shall be enhanced to Rs.4200/- considering his higher responsibilities qua Foreman, who availed the GP of Rs.4200/-. In the said circular of 14.12.2009, the post of Binder HSK Grade-I is shown in the GP Rs.2800/- in PB-I and Grade-II Binder is

shown in the GP Rs.2400/-. The applicant has not provided any provisions of RRs to show that according to his duties he was entitled to the equivalent GP of Rs.4200/- given to Foreman when it is not disputed that Foreman is higher in the promotional hierarchy. The applicant has also not been established that the post of Foreman and the post held by applicant carry equal/similar/same duties.

16. It is also evident that applicant was promoted on 17.1.1997 i.e. in the 5th CPC. Grade pay concept was introduced as per the 6th CPC. Hence, the corresponding scale of the 6th CPC replaced the pre-revised scale of 5th CPC, alongwith relevant GP to the corresponding revised scale. Hence, the said corresponding pay scale became a fait accompli along with the relevant GP of Rs.2400/- Rs.2800/- in 6th CPC. Hence, challenging the GP alone, without any reference to the pre revised/revised pay scale and without any reference to the pre revised/revised scales with GP in the next higher promotional hierarchy held by Foreman amounts to examining

applicant's case in a vacuum.

17. In any case, the matter pertaining to prayer for rectifying anomaly in pay scale is well beyond the scope of Tribunal's intervention and is best left to experts to decide as per settled law. As it stands, the applicant has not made out a credible case for referring the matter to the Anomaly Committee by this Tribunal.

18. The applicant claims to have filed his representations since 2009 seeking GP of Rs.4200/-. This means that the pre revised pay scale of applicant got fixed as per CCS (Revised Pay) Rules, 2008 alongwith corresponding/relevant GP sometimes between 2008-2009. Hence, cause of action arose in 2008-2009. The office circular 188 of 14.12.2009 is one such evidence that the GP of Highly Skilled Grade-I Binder was taken to be Rs.2800/-. The later order of 03.08.2012 reiterated the grant of GP pay of Rs.2800/- to Highly Skilled Grade-I Binder. The later order has not been challenged in this OA.

19. The applicant's lone representation on record dated 25.10.2010. Applicant's case alongwith similar

representations from several other categories of ministerial employees was taken up with Ministry of Urban Development/Ministry of Finance for due examination. No case of anomaly having been made out, as per order dated 11.07.2011, the impugned order was issued on 05.08.2011 itself which was communicated to the applicant, pursuant to such a decision arrived at based on inter ministerial consultation. The above order was issued to applicant 3 months prior to his retirement in November, 2011. Applicant filed this OA more than one year after i.e. on 11.12.2011. No representation was filed after passing of impugned order dated 05.08.2011. Hence, as per AT Act, 1985 there is unexplained delay. It is true that the delay is not inordinate. But no useful propose would be served since applicant has miserably failed to establish the merits of his case. Hence, OA is not maintainable on the ground of limitation.

20. Summing up, we are of the view that applicant has failed to establish a case in his favour on merits. We see no ground to interfere with the impugned order. Hence, OA is liable to be dismissed

both on merits and on grounds of delay.

21. Accordingly, OA is dismissed. No order as to costs.

(Ms.B. Bhamathi)
Member (A)

(Arvind J. Rohee)
(Member (J))

Amit/-

