

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00178/2017

DATED THIS THE 09TH DAY OF OCTOBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

1. Smt. Kanchana K.V.

W/o C. Vijaykumar,

Aged 38 years,

Working as Data Entry Operator Grade-III,

Office of the Nation Sample

Survey Organization (FOD)

Data Processing Division,

3rd Floor, "F" Wing,

Kendriya Sadan,

Koramangala, Bangalore – 34

2. R. Kumari Nirmala

D/o M. Ramakrishna,
Aged 41 years,
Working as Data Entry Operator Grade-III,
Office of the Nation Sample
Survey Organization (FOD)
Data Processing Division,
3rd Floor, "F" Wing,
Kendriya Sadan,
Koramangala, Bangalore – 34

...Applicants

(By Advocate Ranganatha S. Jois)

Vs.

1. The Secretary,
Union of India,
Ministry of Statistics and Programme
Implementation,
Sardar Patel Bhavan,
Sansad Marg,
New Delhi – 110 001

2. The Deputy Director General
NSSO, DPC (Centre)
III Floor, 'F' Wing,
Kendriya Sadan,
Koramangala,

Bangalore – 560 034

3. The Director of NSSO,

DPC (Centre)

III Floor, 'F' Wing,

Kendriya Sadan,

Koramangala,

Bangalore – 560 034

4. The Director (CSW)

NSSO, Data Processing

Division (Head Quarters)

No. 164, GLT Road,

Mahalanobis Bhavan,

Kolkota – 700 108

.....Respondents

(By Shri B. Vishnu Bhat, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The matter is covered by our order in several cases which had gone up to the Hon'ble High Court in Writ Petition No. 1836/2016 dated 27.04.2016 which we quote below:

“ORDER”

The present petition is directed against order dated 06.07.2015 passed by the Central Administrative Tribunal, whereby the Tribunal based on its earlier order in O.A.No.339/2011 dated 01.04.2013 which was confirmed by the High Court of Karnataka allowed the Original Application.

2. *We have heard Mr.K.Prasad Hegde, learned Counsel appearing for the petitioners.*

3. *The contention raised on behalf of the petitioners was that the earlier case in O.A.No.339/2011 decided on 01.04.2013 was in respect of employees who were on unplanned posts whereas the respondent herein is on planned post. If the post is not continued beyond the outer limit or there is a limited life to the post, regularization of respondent would create difficulty to the administration. It was submitted that the aforesaid distinction has not been properly considered by the Tribunal and hence this Court may consider the same in the present petition.*

4. *When we called upon the learned Counsel appearing for the petitioners to show any contemporaneous record that the life of the post over which the respondent are working, was limited for a particular period, he is unable to do so. He only relied upon statement of objections and more particularly para-15 filed before the Tribunal on behalf of the petitioners and contended that such be interpreted as planned post.*

5. *We may record that in para-15, the following statement is made :*

“15. Reg. para 4(1) to 4(3): As already stated under brief facts of the case, the applicant was appointed on 23.8.1999 (AN) as Data Entry Operator Gr-III on contractual basis against plan posts

sanctioned under plan scheme viz. Rationalisation of Data Processing Facilities" of NSSO at D P Centre, Bangalore. The contractual service were further given periodically from time to time by monthly, six monthly, yearly periods based on continuation of sanction of plan posts by the Ministry. In the process on occasions there have been breaks between the two contract periods."

6. In our view, the aforesaid cannot be said to be a contemporaneous record to show that the post had a limited life. If the post was not having a limited life but the appointments were offered on contract basis, it can be said that the respondent was similarly situated and on par with the applicant in O.A.No.339/2011 which came to be decided by the Tribunal earlier vide order dated 01.04.2013. The Tribunal has also recorded the fact that this Court in W.P.No.57381/2013 and allied matters vide order dated 22.04.2014 has confirmed the decision of the Tribunal.

7. When the Tribunal has followed its own decision which is confirmed by this Court and it is not the case of the petitioners that the decision of this Court was carried before the higher forum and which is reversed by the higher forum, it cannot be said that the Tribunal committed any error which may call for interference in this case.

8. Hence, no case is made out for interference and petition is dismissed."

2. This was followed in the same Hon'ble High Court in Writ Petition No. 1834/2016 dated 27.04.2016 which also we quote below:

"ORDER

The present petition is directed against order dated 06.07.2015 passed by the Central Administrative Tribunal, whereby the Tribunal

based on its earlier order in O.A.No.339/2011 dated 01.04.2013 which was confirmed by the High Court of Karnataka allowed the Original Application.

2. *We have heard Mr.K.Prasad Hegde, learned Counsel appearing for the petitioners and Mr.Ranganatha Jois, learned Counsel appearing upon caveat for the respondent.*

3. *The contention raised on behalf of the petitioners was that the earlier case in O.A.No.339/2011 decided on 01.04.2013 was in respect of employees who were on unplanned posts whereas the respondent herein is on planned post. If the post is not continued beyond the outer limit or there is a limited life to the post, regularization of respondent would create difficulty to the administration. It was submitted that the aforesaid distinction has not been properly considered by the Tribunal and hence this Court may consider the same in the present petition.*

4. *When we called upon the learned Counsel appearing for the petitioners to show any contemporaneous record that the life of the post over which the respondent are working, was limited for a particular period, he is unable to do so. He only relied upon statement of objections and more particularly para-15 filed before the Tribunal on behalf of the petitioners and contended that such be interpreted as planned post.*

5. *We may record that in para-14, the following statement is made :*

“14. Reg. para 4(1) to 4(4): As already stated under brief facts of the case, the applicant was appointed on 05.3.1997 as Data Entry Operator Gr-B on contractual basis against plan posts sanctioned under plan scheme viz. Rationalisation of Data Processing Facilities” of NSSO at D P Centre, Bangalore. The contractual appointments were further given periodically from time to time for monthly, six monthly, yearly periods based on continuation of sanction of plan

posts by the Ministry. At the end of each contract period fresh contract for the next period has been accorded and accepted by the applicants. In the process on occasions there have been breaks between the two contract periods."

6. In our view, the aforesaid cannot be said to be a contemporaneous record to show that the post had a limited life. If the post was not having a limited life but the appointments were offered on contract basis, it can be said that the respondent was similarly situated and on par with the applicant in O.A.No.339/2011 which came to be decided by the Tribunal earlier vide order dated 01.04.2013. The Tribunal has also recorded the fact that this Court in W.P.No.57381/2013 and allied matters vide order dated 22.04.2014 has confirmed the decision of the Tribunal.

7. When the Tribunal has followed its own decision which is confirmed by this Court and it is not the case of the petitioners that the decision of this Court was carried before the higher forum and which is reversed by the higher forum, it cannot be said that the Tribunal committed any error which may call for interference in this case.

8. Hence, no case is made out for interference and petition is dismissed."

3. The matter was thereafter taken up to the Hon'ble Apex Court and the Hon'ble Apex Court having dismissed the SLP the matter has become final.

4. The Hon'ble Apex Court had held in several cases that the principle of 'equal pay for equal work' is to be respected by all. The learned counsel for the respondents would say that the payscale of the 7th Pay Commission has

been granted to the applicants but not to the full extent as it is given only at the bottom of the pay and not in the scale. This obviously is not the correct way. A distinction is sought to be brought in that in the 6th Pay Commission this was specifically granted. The case put forth by the respondents is that 7th Pay Commission had not granted this benefit. But then that cannot be correct as otherwise the principles of Article 14 will stand defeated. There cannot be two sets of employees under the same governance system. As rightly held by the Hon'ble Apex Court, these people are also entitled to the same payscale as they are doing the same work and the quantum of work and the quality of work extracted from them is the same as any other employees. Therefore, they are also eligible for the same benefits as is extended to other employees.

5. The OA is allowed. No order as to costs.

(C V SANKAR)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

Annexures referred to by the applicant in OA No. 170/00178/2017

Annexure A1 Copy of the order dated 06.07.2015 in O.A. No. 210/2015

Annexure A 2 Copy of the order dated 06.07.2015 in O.A. No. 209/2015

Annexure A 3 Copy of the order dated 27.04.2016 in Writ Petition No. 1836/2016

Annexure A 4 Copy of the order dated 27.04.2016 in Writ Petition No. 1834/2016

Annexure A 5 Copy of the letter dated 29.12.2008

Annexure A 6 Copy of the implementation of VI Pay Commission earlier extended to the applicant

Annexure A 7 Copy of the representation dated 02.09.2016 of the 1st applicant

Annexure A 8 Copy of the representation dated 02.09.2016 of the 2nd applicant

Annexure A9 Copy of the endorsement dated 13/14.03.2017

Annexures with reply statement

Annexure RA1 Copy of the RP Rules, 2016

Annexure RA2 Copy of the Memorandum dated 17.11.2017

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