

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No.290/00105/2018
With MA No.290/00074/2018

Reserved on : 24.04.2019

Pronounced on : 25.04.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

1. Rajendra Kumar Jain s/o Sh. Kanwari Lal Jain, aged about 56 years, R/o 221, 1 Block, Sector 14, Near Jain Mandir, Udaipur, presently working on the post of Deputy Director (OL) in the office of Chief Commissioner of Income Tax, Udaipur.
2. Ramesh Chandra Sharma S/o Shri S.L.Sharma, age about 46 years R/o 105, Hitawala Complex, Near Gavri Chorah, Sector 13, Hiran Magri, Udaipur. Presently working on the post of Junior Hindi Translator in the office of Chief Commissioner of Income Tax, Udaipur

...Applicants

(By Advocate: Shri S.K.Malik)

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block , New Delhi.
2. The Director of Income tax (PR, PP & OL) Central Board of Direct Taxes, Official Language Division, 6th Floor, Mayur Bhawan, Cannaught Circus, New Delhi.
3. The Chief Commissioner of Income Tax, Udaipur

...Respondents

(By Advocate: Shri Sunil Bhandari)

ORDER

Per Mrs. Hina P.Shah, M(J)

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicants pray for the following reliefs:-

- (i) By an appropriate writ, order or direction the action of respondents not to grant upgraded pay scale of Rs. 5500-9000/-, Rs. 6500-10500 and Rs. 7500-12000 as ordered by the various CAT and upheld by the Hon'ble Apex Court to similarly situated persons to be declared illegal and unjustified.
- (ii) By an order or direction respondents may be directed to grant upgraded higher pay scale of Rs. 6500-10500, Rs. 5500-9000 to the applicants w.e.f. 01.01.96 & 18.12.98 notionally and actually w.e.f. 11.02.03 as given to similarly placed persons along with arrears of pay and 12% interest there on with all consequential benefits.
- (iii) By on order or direction applicants may be allowed to file joint application.
- (iv) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

2. Brief facts of the case, as stated by the applicants, are that applicant No.1 was initially appointed as Senior Hindi Translator w.e.f. 13.12.1989 in the pay scale of Rs. 1640-2900 which was revised to Rs. 5500-9000 w.e.f. 1.1.1996. Thereafter he was promoted as Assistant Director (OL) on 14.5.2001 and lastly as Deputy Director (OL on 25.8.2017. Applicant No.2 was initially appointed as Junior Hindi Translator on 18.12.1998 in the pay scale of Rs. 5000-8000. He came on deputation to Income Tax Department

w.e.f. 12.9.2009 in the same pay scale and absorbed in the Income Tax Department, Udaipur on 3.8.2011.

The controversy in this case pertains to that similarly situated employees filed OAs in different Benches of this Tribunal as the posts till 2003 being held by them were treated at par with the post of Senior Hindi Translator in Central Secretariat Official Language Service (CSOLS) as well as in subordinate offices under the Government of India. However, vide OM dated 14.07.2003 the pay scale of Junior Hindi Translator, Senior Hindi Translator, Assistant Director in CSOLS were revised, upgraded and fixed at Rs. 5500-9000, Rs. 6500-10500 and Rs. 7500-12000 whereas the applicants have been denied upgraded pay scale without any justified reason. The Calcutta Bench of this Tribunal in OA No.912/2004 and 939/2004 held that the applicants are entitled to be treated at par with Hindi Translators in CSOLS. The said order was challenged before the Calcutta High Court which has confirmed the order of the Calcutta Bench of this Tribunal. Similar OAs were also filed before Principal Bench, Bombay Bench, and Chandigarh Bench of this Tribunal and the relief has been granted which has been confirmed by the respective High Courts. SLP No.17419/2009 Union of India & Ors. vs.

Rajesh Kumar Gond and ors. was filed which was decided vide order dated 25.7.2013 dismissing the SLP filed by the Union of India. The applicants have further stated that they have filed representations to implement the judgment of the Hon'ble Apex Court and thereafter respondent No.2 directed all Chief Commissioners and Directors of Income Tax Department to implement the order. The applicants have also submitted reminders, but the respondents have not extended the benefits of the upgraded pay scale. The persons who approached the Tribunal have been given the higher pay scale in terms of the judgments. Therefore, aggrieved by the inaction on the part of the respondents, the applicants have filed the present OA.

3. In this matter, notices of OA and MA were issued on 4.4.2018 and sent by speed post. A/Ds in respect of service of notices were not received therefore, as per rule 25(c) of CAT Rules of Practice, 1993, the notices on respondent Nos. 1 and 3 were deemed to have been served. Notice to respondent No.2 returned back. The respondent Nos.1 and 3 have not filed any reply so far. But since the question involved has already been decided by this Bench, therefore, we are proceeding further without further waiting for reply of the respondents.

4. Heard Shri S.K.Malik, counsel for the applicants and Shri Sunil Bhandari, counsel for the respondents and perused the material available on record. The applicants have also filed a Misc. Application for condonation of delay being MA No.74/2018. After considering the Misc. Application, in the interest of justice, we condone the delay in filing the OA.

5. After hearing the matter, we find that the controversy in hand has already been decided by various Benches of this Tribunal, Hon'ble High Courts and Hon'ble Apex Court. Recently by this Bench in OA No.376/2015 – Sh. Sushil Kumar Tiwari vs. Union of India and Ors. vide order 29.3.2019 has also decided the controversy involved in this OA, wherein in para 5, 6 and 7, this Bench has observed as under:-

“5. During the course of arguments, the learned counsel for the applicant has contended that the present controversy is similar to the one decided by the Ernakulam Bench of this Tribunal in OA No.540/2014 in the case of K.V.Latha vs. Union of India vide order dated 4.8.2015. In the said case, the Ernakulam Bench has relied on the judgment of the Calcutta Bench in OA No.939/2004 dated 9.11.2006, which has been upheld by the Hon'ble Calcutta High Court vide judgment dated 9.7.2008 in Writ Petition No.632/2007. This decision of the Calcutta Bench of this Tribunal was followed by the Bombay Bench of this Tribunal at Circuit Sitting, Nagpur in OA No.2120/2005 and other connected OAs vide order dated 2.8.2012. The respondents challenged the judgment passed by the Hon'ble Calcutta High Court before the Hon'ble Apex Court in SLP (C) No.17419/2009. The said SLP (C) No.17419/2009 with Civil Appeal No.1119/2013 and SLP (Civil) No.37255/2012 were dismissed vide judgment 25.7.2013. The learned counsel for the applicant relies particularly on the order passed in Civil

Appeal No. 1119/2013, wherein the Hon'ble Apex Court observed that :-

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

6. The applicant contends that his case is also similar to one decided by the Bombay Bench of this Tribunal as well as by the Ernakulam Bench wherein the OA was allowed and it was held that the applicant is entitled to get the pay scale of Rs. 5500-9000 w.e.f. 1.1.1996. We have also noted that the Principal Bench of this Tribunal in OA no.124/2013 –Shri S.Ramesh and Ors. vs. Union of India- vide order 1.8.2014 and OA No.1777/2012- Smt. Sadhna Tripathi vs. Union of India and Ors. vide order dated 22.11.2013 has decided the same issue declaring that the applicants therein were entitled to the pay scales as granted to their counterparts in the CSOLS. Bare perusal of the impugned order dated 26/31.8.2015 (Ann.A/1), it reveals that the benefits has been denied to the applicant by the respondents solely on the ground that there is no matter pending before the Central Administrative Tribunal/Court, therefore, he was not allowed the higher pay scale of Rs. 6500-10500. Perusal of Ann.A/2 and A/3 reveals that benefits of higher pay scale has already been extended to some similarly situated persons in the department who have approached the Court.

7. Accordingly, the impugned order dated 26/31.8.2015 passed by the respondents on the representation of the applicant seeking removal of anomaly is hereby quashed and set aside. Since the controversy in the present case regarding equivalence of the pay scale vis-a-vis their counterparts in the CSOLS, has been decided by various Benches of this Tribunal and also by the Hon'ble Apex Court in Civil Appeal No. 1119/2013 in the case of Dhananjay Singh, the present OA is allowed and the respondents are directed to extend the benefit of pay scale of Rs. 6500-10500 to the applicant from the due date at par with other similarly situated employees and refix the pay of the applicant accordingly with all other benefits of refixation within a period of three months from the date of receipt of a copy of this order. No order as to costs."

6. In view of above observations, since the controversy involved in the present OA is squarely covered by our

earlier order dated 29.3.2019 passed in OA No.376/2015, therefore, without going into elaborate discussions in the matter, we allow the present OA and direct the respondents to extend the benefit of higher pay scale to the applicants of this OA from due date at par with other similarly situated employees and refix their pay with all other benefits of refixation within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/