

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No.290/00376/2015

Reserved on : 13.03.2019

Pronounced on : 29.03.2019

CORAM:

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

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

Sh. Sushil Kumar Tiwari s/o Sh. Devi Dutt aged about 59 years r/o 20 Aayker Colony, Mandor Road, Polo II, Jodhpur, presently working as Senior Hindi Translator in the office of Chief Commissioner of Income Tax, Jodhpur

...Applicant

(By Advocate: Shri Kamal Dave)

Versus

1. Union of India through the Secretary, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
2. The Principle Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwan Das Road, Jaipur
3. The Chief Commissioner of Income Tax, Aayker Bhawan, Paota 'C' Road, Jodhpur.

...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 applicant prays for the following reliefs:-

- (i) That by quashing Annexure-A/1 dated 26/31.08.2015 respondent department may kindly be order to allow the benefit of pay scale of Rs. 6500-10500 from the date of entry in the department 01.06.2001 notionally and real monetary benefit of the above pay scale w.e.f. 11.02.2003.
- (ii) That applicant may kindly be declared to equally placed Senior Translator in respect of whom anomaly is concluded to have be existed vis-a-vis the employee of CSOLS New Delhi.
- (iii) Any other appropriate order or direction, which may be considered just and proper in the light of above, may kindly be issued in favour of the applicant.
- (iv) Costs of the application may kindly be awarded in favour of the applicant.

2. Brief facts of the case, as stated by the applicant, are that he is serving with the respondents after having entered into service on 01.06.2001 on deputation which culminated into absorption as Senior Translator from the date of entry on deputation in the Income Tax Department i.e. 01.06.2001 in the pay scale of Rs. 5500-9000. The applicant since entry in the respondent department is running in the same pay scale with advantage of grant of benefit of 6th Pay Commission which allowed grade pay of Rs. 4600/- as admissible to the pay scale of Rs. 5500-9000. The dispute arose by allowing pay scale to the Junior/Senior Hindi Translators which was lesser than the pay scale allowed to the Central Secretariat Official Language Services (CSOLS), New Delhi. This controversy has finally been adjudicated putting the Senior Hindi Translators equal to the Hindi Translators of CSOLS. The case of the

applicant is that he is similarly situated employee and, therefore, as the said anomaly has been undergone and examined by various Benches of this Tribunal holding the same as arbitrary and discriminatory and accordingly direction was given to grant equal treatment by allowing the pay scale of Rs. 6500-10500 and concluding that an anomaly exists, therefore, the said pay scale was ordered to the employees. The applicant relied on the judgment dated 25.7.2013 passed by the Hon'ble Apex Court in SLP No.3380/2013 converted into Civil Appeal No.1119/2013 – **Union of India and Ors. vs. Dhananjay Singh**. The Hon'ble Apex Court vide this judgment dismissed the appeal after categorically holding that there is no functional distinction as far as work of translator is concerned. In view of the judgment of the Hon'ble Supreme Court, the respondents issued orders for grant of benefit of pay scale of Rs. 6500-10500 from the date of implementation of 5th CPC i.e. 1.1.1996 with further direction for allowing benefit in real terms from 11.2.2003. Orders were issued by various Principal Chief Commissioners of Income Tax, New Delhi dated 27.7.2015 and also the Chief Commissioner of Income Tax, Nagpur dated 17.10.2013 extending benefits to the Senior Translators in view of finality of the litigation.

The applicant avers that his case is identical to the one cited above and he also deserves the same benefit for which he made representation dated 11.8.2014 and reminder dated 4.8.2015. The applicant averred that the respondent department cannot deny the applicability of the principle once the functional similarity is judicially declared, but the department in reply to the representation declined the benefit of declared functional equality on the ground that no case of the applicant is pending. According to the applicant, since his case is on the same footing, he deserves to be given the same benefits. Therefore, aggrieved of the inaction on the part of the respondents, the applicant has filed the present OA.

3. The respondents have not filed their reply in the present matter till date, though the applicant has filed the present OA on 15.9.2015 and notices were issued and respondents were directed to file reply on 18.9.2015.

4 Heard Shri Kamal Dave, learned counsel for the applicant and Shri Sunil Bhandari, learned counsel for the respondents and perused the material available on record.

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.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/