

Central Administrative Tribunal, Principal Bench

MA No.1563 of 2004 and MA No.1564 of 2004 in
O.A. No. 1139 of 2003

Shri S.K. Vij and Others Vs U.O.I. & Others

New Delhi this the 9th day of November, 2004

Present: Shri Deepak Verma, Counsel for the original applicants.
Shri R.N. Singh, Counsel for the respondents/petitioners in M.As.

MA No. 1563/2004 and MA No. 1564 of 2004

MA No.1563/2004 is filed by the respondents in OA No. 1139/2003 for clarification/correction of the order dated 30.1.2004 passed in OA No.1139/2003 and declaring the applicants in the OA as "Data Processing Assistants Grade-A" in place of "Data Processing Assistants Grade-III". MA No.1564/2004 is filed by the same respondents for condonation of delay in filing the first application.

2. The facts leading to this application, briefly stated, are that the applicants, Data Processing Assistants filed OA No.1139/2003 for placing them in the grade of Rs.1660-2660, instead of Rs.1350-2200 w.e.f. 1.1.1986 in parity with the applicants in OA No.1332/1999 decided on 11.2.2002. In para 8 of the OA they prayed for grant of the following reliefs:-

- "(i) Re-fix the pay of the applicants in the pre-revised scale of Rs.1600-2660 w.e.f. 1.1.1986 or the date of their joining DPA whichever is later as done in the case of junior/other DPAs.
- (ii) To pay all consequential benefits as a result of such re-fixation along with costs".

The Tribunal upheld their claim and disposed off the OA by passing the following order:-

"11. Accordingly, having regard to the facts and background of the case, we are inclined to take a view that the ends of justice would be met if the present OA is allowed with directions to the respondents to treat

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the applicants as DPAs Grade III in the scale of Rs.1600-2660 w.e.f. 1.1.1986 or the date of their joining whichever is later with all consequential benefits as given to the applicants in OA 1332/99. The respondents are directed accordingly. They are further directed that this order shall be implemented within three months from the date of receipt of a copy of this order. No order as to costs".

3. The respondents were granted extension of time for implementing the order and ultimately the order was implemented by placing the applicants of the OA in the scale of Rs.1600-2660 in accordance with the order.

4. The present application has been with the allegation that while implementing the order it was noticed that though the pay scale, i.e., Rs.1600-2660 admissible to the Data Processing Grade III has been granted to the applicants by the aforesaid order dated 5.7.2004 in terms of the order/judgment, however, such post, i.e., Data Processing Assistant Grade III is not available in the office of the respondents and the corresponding post in the same scale existing in the office of the respondents is Data Processing Assistant Grade 'A' and accordingly, the respondents have declared the applicants as Data Processing Assistants Grade 'A' whereas in para 11 of the judgment under reference, this Hon'ble Tribunal has declared the applicants as Data Processing Assistants Grade-III.

5. The respondents, as such wanted a clarification or correction in the order that the applicants in the OA were "Data Processing Assistant Grade A" in place of Data Processing Assistants Grade-III.

6. The application was contested by the original applicants (respondents in the M.As), inter alia, on the following grounds:-

(i) That the re-designation was as per the direction of the Hon'ble Supreme Court (C.M. Dadwa Vs. Union of India, JT 1998 (6) SC 602);

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(ii) once the judgment of this Tribunal was affirmed by the Hon'ble Delhi High Court while dismissing the Writ Petition filed by the respondents on merit and it had been implemented, the Tribunal had become functus officio; and

(iii) the Union of India (respondents) in their counter-affidavit dated 29.8.2003 (Annexure-AA1) filed in the OA 1080/2003 (Mrs. Urmil Jaitley and Others Vs. U.O.I.) where same relief as contained in the present order dated 30.1.2004 was extended, categorically admitted, that the post of Junior Programmer Assistant (re-designated as Data Processing Assistant Grade-A) is a senior post to the post of Data Processing Assistant/TL and on the recommendations of Seshagiri Committee higher post, i.e., Junior Programmer Assistant (JPA) has been re-designated as Data Processing Assistant Grade-A (DPA-A) and that the respondents now want the junior/feeder post (DPA/TL) also to be re-designated as Data Processing Assistant Grade-A (DPA-A).

7. We given careful consideration to the submissions made at the bar and have meticulously perused the record.

8. It would be clear from the prayer clause of the OA that the applicant sought parity in the matter of pay scale with those of the applicants in OA 1332/1999 decided on 11.2.2002. The applicants in the said OA wanted placement in the scale of Rs.1600-2660 w.e.f. 1.1.1986 or the date of their joining whichever was later with consequential benefits. They had joined directly as Data Processing Assistants in the Department of Statistics, Computer Centre. The Tribunal holding that the applicants were covered by the judgment of the Hon'ble Supreme Court in Dadwa's case (Supra), disposed off the OA by passing the following order:-

“ 8. Under the circumstances we hold that the Hon'ble Supreme Court's ruling in Dadwa's case (Supra) is squarely applicable with

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present applicants. The OA, therefore, succeeds and is allowed. Respondents are directed to declare applicants as Data Processing Assistants Grade-III in the scale of Rs.1600-2660 w.e.f. 1.1.1986, or the date of their joining whichever is later, with all consequential benefits, including payment of arrears, fitment in revised scale consequent to the recommendations of Vth Pay Commission; and consideration for promotion to higher posts. These directions should be implemented within four months from the date of receipt of a copy of this order. No costs".

9. Now it was the turn of the applicants to claim that they were also similarly placed persons and are entitled to be given the benefit of the judgment of the Hon'ble Supreme Court in Dadwa's case and in the case of OA 1332/1999. It was neither a prayer made in the OA nor was any order of the Tribunal that their designation would be changed. The order of the Tribunal was "to treat the applicants as DPA Grade-III in the scale of pay of Rs.1600-2660 w.e.f. 1.1.1986 or the date of their joining whichever is later with all consequential benefits as given to the applicants in OA 1332/1999" (emphasis supplied). The applicants, DPA were as such brought at par with the applicants in OA 1332/1999 in the matter of pay scale. The question of the designation or re-designation of the applicants was neither an issue nor was it decided. Order does not show that the applicants were declared DPA Grade-III but whatever their designation may be they were to be treated as "DPA Grade-III" in the pay scale of Rs.1600-2660. Therefore, the application filed by the applicants is uncalled for and unwarranted. If the order of this Tribunal dated 30.1.2004 has resulted into some anomalous situation, the respondents were free to take necessary steps for dealing with it. A declaration by this Tribunal about re-designation of the applicants as DPA Grade-A or any other designation would not be within the scope of the OA.

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10. In view of this we find that even if the Miscellaneous Application (MA 1564/2004) for condonation of delay in filing the application is allowed, we do not find any merit in the other Miscellaneous Application (MA 1563/2004). Accordingly the Miscellaneous Application No.1563/2004 is dismissed on merit as well. M.A. No.: 1564/2004

Statement also passed off.

(SARWESHWAR JHA)
MEMBER (A)

Received and done

(M.A. KHAN)
VICE CHAIRMAN(J)

Rakesh