

(2019) 03 CAT CK 0175

In the Central Administrative Tribunal

Case No : Original Application No. 170, 00243, 00275 Of 2018

C.H. And Ors Ramanna

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 22-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 16, 21

Citation : (2019) 03 CAT CK 0175

Hon'ble Judges : K.B. Suresh, J;C.V. Sankar, J

Bench : Division Bench

Advocate : Smruthi Law Chambers, Vishnu Bhat

Final Decision : Allowed

Judgement

1. The brief facts of the case are as follows:

The applicants are Technical Assistants working in different units belonging to Central Silk Board(CSB)(2nd respondent). The Min. of Finance issued an OM dtd.2.12.1997(Annexure-A2) regarding pay revision of employees of Quasi Govt. Organisation, Autonomous Organisation, Statutory Bodies etc., set up by and funded/controlled by the Central Government containing the guidelines in implementing V CPC as accepted by the Government. In pursuance of which, the Min. of Textiles(1st respondent) issued OM dtd.10.12.1997(Annexure-A3) endorsing the OM dtd.2.12.1997 to various segments under its control for information and necessary action. The 1st respondent vide letter dtd.16.6.1999(Annexure-A4) conveyed to 2nd respondent about the approval of the Govt. of India for revision of pay scales of the scientists of the CSB at par with the CSIR. The pre-revised scale of pay of Rs.1640-2900 applicable to the cadre of Senior Research Assistant was revised to Rs.5500-9000 w.e.f. 1.1.1996 as per the recommendations of the V CPC. Thus, the long pending demand of the scientific staff of CSB comprising of Senior Research Assistants, Senior Research Officers, Dy. Directors, Jt. Directors and Directors for rationalisation of their pay scales was considered by the Min. of Textiles during 1999 and the Board

extended the revised pay package to Sr.Research Assistants, Jt.Directors and Directors w.e.f. 1.1.1996 besides extending facility to automatic transition from SRA cadre(Rs.5500-9000) with 10 years service to Sr.Research Officer cadre (Rs.8000-13500) and thereby the revision of pay scales was done with the specific approval of the Govt. exclusively for the scientific personnel. It is submitted that the Govt. of India, Dept. of Official Language vide OM dtd.8.11.2000(Annexure-A5) conveyed approval for revision of pay scales in respect of Junior Translators(Hindi) from Rs.4500-7000 to Rs.5000-8000 w.e.f. 1.1.1996 working in all Central Govt. Establishments/Ministries. Accordingly the 2nd respondent Board has also revised the pay scales of all the Junior Translators w.e.f. 1.1.1996. Similarly the Govt. of India approved for revision of pay scale of Library Staff and CSB has effected the revision of pay scales of eligible Library staff accordingly w.e.f. 1.1.1996.

2. The applicants submit that the 2nd respondent vide OM dtd.15.11.2001 irrationally and arbitrarily declared revision of the scale of Technical Assistants from the pre-revised scale of Rs.1400-2300 to 5000-8000 w.e.f. 15.11.2001. Since the OM dtd.15.11.2001 was issued in violation of Articles 14 & 16 of the Constitution of India, some of the colleagues of the applicants filed WP.No.4769/2003 before the Hon'ble High Court of Andhra Pradesh seeking for issuance of writ of Mandamus declaring the OM dtd.15.11.2011 granting the revised scale of pay of Rs.5000-8000 w.e.f. 15.11.2001 instead of 1.1.1996 as arbitrary, illegal and being violative of the rights guaranteed under Articles 14, 16 & 21 of the Constitution of India. The Hon'ble High Court of Andhra Pradesh vide order dtd.23.03.2010 had set aside the OM dtd.15.11.2001 directing the Board and the Ministry to consider the case of the petitioners for giving effect to the revised pay scales, including the arrears of pay which the petitioners were entitled to w.e.f. 1.1.1996 within two months(Annexure-A6). The CSB and the Min. of Textiles filed a Writ Appeal No.504/2003 before the Hon'ble High Court of Andhra Pradesh which dismissed the same vide order dtd.5.9.2013(Annexure-A7) confirming the order passed in WP.4769/2003. Thereafter, the CSB and Min. of Textiles filed an SLP No.36133/2013 against the judgment in Writ Appeal No.504/2010. The Hon'ble Supreme Court in its order dtd.16.12.2013(Annexure-A8) dismissed the same holding that there is no merit in the SLP. The CSB and Min. of Textiles have again filed a Review Petition(C) No.428/2014 in SLP No.36133/2013 which was also dismissed vide order dtd.26.2.2014(Annexure-A9). Hence, the 2nd respondent vide Memorandum dtd.12.3.2014(Annexure-A10) had implemented the order dtd.23.2.2010 passed by the Hon'ble High Court of Andhra Pradesh in WP.No.4769/2003 filed by Sri A.Shivaiah & 4 others and their pay was fixed in the pre-revised scale of Rs.5000-8000 w.e.f. 1.1.1996. The applicants submit that since they were also working as Technical Assistants in the 2nd respondent Board on par with Shri A.Shivaiah & 4 others, they submitted a representation dtd.29.2.2014(Annexure-A11) to the respondents to consider their valid and reasonable request of pre-revised pay scale of Rs.5000-8000 w.e.f. 1.1.1996. They submitted reminder

dtd.7.11.2014(Annexure-A12) to the 2nd respondent. The 2nd respondent issued circular dtd.28.11.2014(Annexure-A13) which was communicated by 3rd respondent vide intimation dtd.16.12.2014(Annexure-A14), refusing to consider the applicants' request of pre-revised pay scale of Rs.5000-8000 w.e.f. 1.1.1996 which was granted to their colleagues vide memorandum dtd.12.3.2014. The applicants submitted one more representation dtd.12.3.2014(Annexure-A15). Being aggrieved by the inaction of the respondents in implementing the memorandum dtd.12.3.2014, the applicants filed SLP No.101/2016 before the Hon'ble Supreme Court but later they withdrew the same vide order dtd.26.2.2016(Annexure-A16). Thereafter, they filed WP(C) No.2565/2016 before the Hon'ble High Court of Delhi which passed an order on 9.3.2017(Annexure-A17) giving liberty to the applicants to file appropriate independent proceedings in the competent court of territorial jurisdiction since the High Court does not have territorial jurisdiction as the 2nd respondent is at Bangalore. Accordingly, the applicants have filed the present OA seeking the following relief:

i. Issue a writ of Certiorari or any other appropriate writ or direction quashing the impugned circular bearing No.CSB-80(1)/2001-ES(Law) (PF) dtd.28.11.2014 passed by the 2nd respondent(Annexure-A13) since the same is arbitrary and illegal.

ii. Issue a writ of Certiorari or any other appropriate writ or direction quashing the impugned intimation bearing No.CSB-80(1)/2001-ES(Law) (PF) dated 16.12.2014 passed by the 3rd respondent(Annexure-A14 series) since the same is illegal and arbitrary.

iii. Issue a writ of Mandamus or any other appropriate writ or direction directing the respondents Board and Ministry of Textiles to grant the benefit of the revised pay scale of Rs.5000-150-8000 w.e.f. 1.1.1996 on par with those of the other employees and release all consequential service and monetary benefits including arrears of pay, increments etc.

3. The applicants further submitted that the foundation of impugned circular dtd.28.11.2014 is the memo dtd.15.11.2001 granting revised scale of pay of Rs.5000-8000 from 15.11.2001 instead of 1.1.1996, which was set aside by the Hon'ble High Court of Andhra Pradesh. Hence, the impugned circular dtd.28.11.2014 suffers from lack of application of mind which runs contrary to the ruling of the Hon'ble Apex Court in East Coast Railway & Another vs. Mahadev Appa Rao & others in AIR 2010 SC 2794. It is submitted that once the Board which adopts the recommendations of the pay commission cannot discriminate the same among the employees of the Board. The 2nd respondent erred in issuing the impugned circular dtd.28.11.2014 as the applicants are similarly situated employees working as Technical Assistants in the CSB and they are equally eligible on par with their colleagues namely Sri A.Shivaiah & 4 others who were also in the same cadre of Technical Assistant. Hence, the discriminating attitude of the respondent Board is highly unjustifiable and is hit by Article 14 of Constitution of India.

4. The respondents, on the other hand, have submitted in their reply statement that the long pending demand of the scientific personnel of CSB comprising of Senior Research Assistants, Senior Research Officers, Dy. Directors, Jt. Directors and Directors, for rationalisation of their pay scales was considered by the Min. of Textiles during 1999 and extended the revised pay package to Sr.Research Assistants, Jt.Directors and Directors w.e.f. 1.1.1996 besides extending facility to automatic transition from SRA cadre(Rs.5500-9000) with 10 years service to Sr.Research Officer cadre (Rs.8000-13500). This pay package was made applicable to scientific staff only and it cannot be extended/compared to other disciplines including technical and field personnel to which the applicants belong. They submit that the Govt. of India, Dept. of Official Language vide OM dtd.8.11.2000 conveyed approval for revision of pay scales in respect of Junior Translators(Hindi) from Rs.4500-7000 to Rs.5000-8000 w.e.f. 1.1.1996 working in all Central Govt. Establishments/Ministries. Accordingly the 2nd respondent Board has also revised the pay scales of all the Junior Translators w.e.f. 1.1.1996. Since, this has been done with the specific approval of the Govt. of India, the same cannot be extended to other disciplines. The Govt. of India, Min. of Finance has issued OM dtd.21.2.2002(Annexure-R1) submitting that though the pay scale for the posts of Librarians, Junior Translator(Hindi) and Scientists of CSB was revised w.e.f. 1.1.1996, this is a separate issue and not linked with the present case. The pay scales of Rs.4500-7000 for the posts of Technical Assistant, Assistant(Technical) and Senior Mechanic was continued till the revision of the pay scale from Rs.4500-7000 to Rs.5000-8000 w.e.f. 15.11.2001 under rationalisation. The CSB has conducted a detailed cadre review in respect of non-scientific cadres which include the Technical cadre and based on the recommendations of Cadre Review Committee and with the approval of the Board implemented certain recommendations like provision of additional posts in order to relieve acute stagnation, conversion of posts, rationalisation of pay scales in respect of certain cadres etc. The post of Technical Assistant to which the applicants belong is one such post the scale of which was revised from Rs.4500-7000 to Rs.5000-8000 w.e.f. 15.11.2001 based on the recommendations of the Cadre Review Committee. Since, this is purely departmental action to streamline the scales of pay and not a general revision of pay scales like implementing the recommendations of the V CPC which was done after the implementation of V CPC, the effect of such pay scale revision can only take a prospective effect and cannot be done w.e.f. 1.1.1996. The same benefits were extended to the posts of Assistant(Technical) and Sr.Mechanic from Rs.4500-7000 to Rs.5000-8000 w.e.f. 15.11.2001.

5. The respondents submit that in the case of Sri A.Sivaiah & 4 others (applicants in the WP.No.4769/2003) as the orders of the Hon'ble High Court of Andhra Pradesh was finally upheld by the Hon'ble Supreme Court, the respondents had to implement the orders of High Court of Andhra Pradesh in respect of the applicants in that WP which is 'in personam'. In case similar benefits are to be considered for other officials, there will be serious

administrative difficulties and financial implications involved are huge. From 15.11.2001 till date, employees working in the above cadres have been granted financial upgradation under ACP scheme and MACP scheme and some of the employees have got promotion to higher posts. Some of the employees have already expired and their family members are drawing family pension. Subsequently, the recommendations of the VI CPC have been implemented in respect of CSB employees. Therefore, there will be serious administrative implications in fixing the pay of the employees/ fixing the pension of retired employees etc. This will unsettle the already settled issues. The Board has no financial powers to implement this benefit to other officials as the said benefit extended to all the employees working in four cadres from 15.11.2001 as a onetime measure. Therefore, the request of the applicants to consider their cases for extending the rationalized pay scale of Rs.5000-8000 from a retrospective date i.e. from 1.1.1996 instead of 15.11.2001 cannot be considered and the applicants are not entitled for any reliefs as claimed in the OA and hence, the OA is liable to be dismissed.

6. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The case of the applicants is exactly similar to that of the persons who obtained orders in WP.No.4769/2003 from the Hon'ble High Court of Andhra Pradesh wherein the Single Judge had comprehensively dealt with the issue and the operative portion of the order is as follows:

"From a perusal of the material on record, it reveals that revision of pay scale implemented to the various categories of the respondent's employee i.e. Librarians, Junior Translator (Hindi) and Scientists from 01.01.1996 and the same benefit has not been given to the petitioners. The respondents in its counter stated that the Board has conducted a detailed review and based on the recommendations of the Cadre Review Committee and with the approval of the Board implemented certain recommendations along with the implementation of revised scales from Rs.4500-7000 to Rs.5000-8000 with effect from 15.11.2001, which is purely departmental action, is not sustainable. The department or the Board cannot discriminate in extending the pay scales from a particular date, the day on which the proceedings have been issued. Invariably pay scales come into effect from the date of pay revision and it is nothing to do with the department or their action. In the instant case, as could be seen that in respect of various categories referred to above it is clear that the anomaly that took place was rectified and consequently the benefits have been provided with effect from 01.01.1996 and the case of the petitioners was also rectified by giving revising pay scales as claimed by the petitioners but restricted with effect from 15.11.2001, the date on which the proceedings have been issued instead of rectifying the same by giving the benefit from 01.01.1996. Therefore, I am of the view that the impugned proceedings to the extent of extending benefit to the petitioners with effect from 15.11.2001 is illegal and arbitrary."

7. This was taken up on appeal in Writ Appeal No.504/2010 and the Hon'ble High

Court of Andhra Pradesh vide its order dtd.5.9.2013 disposed of the same with the operative portion as follows:

"We have perused the order of the learned Single Judge and the material available on record. The learned single Judge, after going into the merits of the case, found that other cadre employees were granted benefit of revised pay scales from 1.1.96, whereas the writ petitioners were granted the benefit from 15.11.2001 and that there is no reason for denying the same benefit to the writ petitioners. The learned Single Judge also found that the Government of India vide their OM dated 8.1.2000 conveyed approval for revision of pay scales in respect of Junior Translators (Hindi) from Rs.4500-7000 to Rs.5000 -8000 with effect from 1.1.96. The learned Single Judge also found that non-extending the benefit of revised pay scales from 1.1.96 to the writ petitioners is illegal and arbitrary. We are of the view that there is no justification for the appellants in not extending the benefit of revised pay scales to the writ petitioners w.e.f. 1.1.96 while the other cadre employees of the 2nd appellant-Board were extended the same benefit w.e.f. 1.1.96. Therefore, we do not find any error in the view taken by the learned Single Judge in this respect."

8. The SLP filed by the respondents was dismissed by the Hon'ble Apex Court in SLP No.36133/2013 vide order dtd.16.12.2013 and the review petition was also dismissed vide orders of the Hon'ble Apex Court dtd.26.2.2014. The matter relating to the eligibility of the applicants to the relief sought for by them has been comprehensively established with respect to the persons exactly similar to those who have obtained orders from the Hon'ble High Court of Andhra Pradesh which has reached finality. In their representations to the respondents, the applicants have also cited the case of *Inder Pal Yadav v. Union of India* (1985) 2 SCC 648 wherein the Hon'ble Apex Court has held as under:

"... those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this Court."

The applicants have also cited the case of *Amrit Lal Berry v. CCE* (1975) 4 SCC 714 wherein the Court has held as under:

"We may, however, observe that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favor, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court."

9. The respondents have only cited certain serious administrative difficulties and financial implications involved. However, we are not able to appreciate their stand inasmuch as a very clear decision has emerged in terms of granting the benefit as requested by the applicants on par with similarly placed persons within

the same respondent organisation. Therefore, the OA is allowed. The respondents are directed to implement the orders within a period of two(2) months. No costs.