

(2012) 12 DEL CK 0345
In the Delhi High Court
Case No : Writ Petition (C) 7805 of 2012

UOI and Others

APPELLANT

Vs

Vinod Kumar and Others

RESPONDENT

Date of Decision : 17-12-2012

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2013) 4 AD 886

Hon'ble Judges : Siddharth Mridul, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Rajinder Nischal, for the Appellant; Padma Kumar S., for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.

CAV 1269/2012

The learned counsel for the respondents is present.

The caveat stands discharged.

WP(C) 7805/2012 & CM 19648/2012

1. The petitioners are challenging the order dated 15.05.2012 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA 3178/2011, which was allowed by the said Tribunal. There were 13 petitioners before the Tribunal in the said OA. Two out of the 13 persons were Data Entry Operators Group "D" and the other 11 persons were Data Entry Operators Group "B". The post DEO "B" is the feeder group for DEO "D".

2. The post of DEO "D" was placed in the scale of Rs. 5500-9000 (pre-revised). The respondents were claiming that the revised scale ought to be Rs. 6,500-10,500/-. The persons who were functioning as DEO "B" are also

interested because they have been given the financial upgradation under the ACP scheme and, therefore, they are also claiming the scale of Rs. 6,500-10,500/-.

3. It may be pointed out at this stage itself that earlier five persons, who were holding the post of DEO "D", had filed an Original Application u/s 19 of the Administrative Tribunal Act, 1985 claiming the scale of Rs. 6,500-10,500/-. Those persons were granted that scale by the Tribunal by virtue of an order dated 03.02.2005 in OA 1288/2004. Thereafter, another set of persons, which included three persons who were in service and other retired persons, filed OA 1574/2005 claiming the same scale of Rs. 6,500-10,500/- insofar as the post of DEO "D" was concerned. That Original Application was also allowed by the Tribunal by virtue of its order dated 07.04.2006. It is pertinent to note the observations of the Tribunal in OA 1574/2005 decided on 07.04.2006, which are to the following effect:-

Applicants are, therefore, similarly circumstanced as applicants in those cases. In view of the Coordinate Bench decision with the matter of Sh. M. Krishnamoorthy (supra) and that of the Apex Court in K. C. Sharma and ors. Vs. UOI 1987 (3) ATC 1177 they cannot be denied the similar benefits as accorded to identically situated persons. Respondents as such will be well advised to extend the benefit of the aforesaid judgments to the similarly placed applicants and they should not have driven them to seek redressal of their grievance before the Tribunal.

4. The said order dated 07.04.2006 was not challenged by the petitioners and was implemented. Once that was the position, the petitioners ought to have extended the benefit of the said decisions of the Tribunal in OA 1288/2004 and OA 1574/2005 to similarly circumstanced individuals. But the petitioners did not do so, as a result of which the respondents were compelled to file the said OA 3178/2011 which has been allowed by the Tribunal.

5. The Tribunal noticed that as a result of the inaction on the part of the petitioners to extend the benefits of the said two decisions to all similarly circumstanced individuals, persons holding the same post have been categorized into two categories carrying different pay scales, though both were at par in all other respects. The Tribunal also noticed that out of ten posts of DEO "D", eight individuals were getting a pay scale of Rs. 6,500-10,500/-, while the remaining two (respondent Nos. 1 and 2 herein) were getting the pay scale of Rs. 5,500-9,000/-. The Tribunal also noticed that the other respondents (respondent Nos. 3-13 herein), who had been granted ACP, have been placed in the pay scale of Rs. 5,500-9,000/- instead of Rs. 6,500-10,500/-. After noticing this anomaly, the Tribunal quashed the order dated 31.03.2011, whereby the respondents herein were denied the benefit of the higher pay scale merely on the ground that they were not parties to the earlier litigation, namely, OA 1288/2004 and OA 1574/2005. The Tribunal, accordingly, allowed the Original Application No. 3178/2011 and directed the petitioners herein to grant the respondents herein the same pay scale of Rs. 6,500-10,500/- as has been granted to the DEO "D" in the earlier litigation.

6. The petitioners are aggrieved by this decision of the Tribunal and are before us by way of this writ petition. We fail to see as to why this writ petition has been filed when the position in law is very clear. The learned counsel for the respondents has drawn our attention to three decisions of the Supreme Court, which we shall mention presently. The first decision is in the case of Amrit Lal Berry and Another Vs. Collector of Central Excise, New Delhi and Others, , wherein the Supreme Court observed as under:-

24... 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 favour, 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.

7. The next decision is in the case of Inder Pal Yadav and Others Vs. Union of India (UOI) and Others, , wherein the Supreme Court, inter alia, stated as under:-

5... It is a Hobson's choice. Therefore, 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.

8. Finally, in the case of State of Karnataka and Others Vs. C. Lalitha, , the Supreme Court categorically observed as follows:-

29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently....

9. The dictum of the Supreme Court is absolutely clear that in service jurisprudence all persons similarly situated should be treated similarly and only because some persons had approached the court, would not entitle the employers to treat persons similarly situated, but who have not approached the court, in a different manner. As a result, we see no reason to interfere with the impugned order passed by the Tribunal as that follows the law laid down by the Supreme Court. The writ petition is dismissed. There shall be no order as to costs.