

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

[1] Civil Writ Petition No.8758 of 2015 (O&M)
Date of Decision: May 06, 2015

Union of India and others		Petitioners
	versus	
Satpal Singh and others		Respondents

[2] Civil Writ Petition No.8842 of 2015 (O&M)

Union of India and others		Petitioners
	versus	
Virender Mitter and others		Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Namit Kumar, Advocate, for the petitioners.
Mr.Jagdeep Jaswant, Advocate,
for the caveator-respondent(s).

- 1. *Whether Reporters of Local papers may be allowed to see the judgment?*
- 2. *To be referred to the Reporters or not?*
- 3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

This order shall dispose of CWP Nos.8758 and 8842 of 2015 as the point in issue raised before the Central Administrative Tribunal, Chandigarh Bench was common in nature and subsequently the Review Applications filed by the petitioners in both the cases came to be dismissed on 21.01.2015.

[2] The issue that arose for consideration of the Tribunal was whether the respondents are entitled for stepping-up their pay at par with their juniors and consequential arrears arising therefrom?

[3] The respondents, who held different posts under

the Controller General of Defence Accounts, Union of India, raised the above-stated issue, inter-alia, pointing out that one of their junior was drawing higher emoluments due to erroneous pay fixation of respondents and the anomaly was required to be rectified by stepping-up their pay.

[3] An identical issue was raised before the Bangalore Bench of the Tribunal in the case of N.S.Shivakumar and others versus Controller of Defence Accounts, OA No.670/99, 831 & 832 of 1999. Those Original Applications were allowed by the Tribunal vide order dated 10.11.2000 and it is the conceded position that the Tribunal's judgment was upheld by the Hon'ble Supreme Court, though the question of law was left open.

[4] Thereafter, similarly placed officials approached the Madras Bench of the Tribunal in OA No.260 of 2002 (R.Sridharan and others versus The Controller of Defence Accounts and others). The said OA was allowed by the Tribunal vide order dated 27.11.2008 (Annexure A-1) following the judgment of the Bangalore Bench of the Tribunal. It is not in dispute that the said order of the Tribunal has also attained finality on 01.10.2009 when SLP(C) No.14167/2009 preferred against the said order came to be dismissed by the Hon'ble Supreme Court.

[5] Then came the turn of the Principal Bench of the Tribunal at Delhi who too in the case of Kuldeep Kumar Sharma and others versus Union of India and others, OA No.1979 of 2011 and other connected Original Applications, followed the above-cited judgments of the Bangalore and Madras Benches of the Tribunal and allowed the claim.

[6] The Union of India challenged the order of the

Principal Bench before Delhi High Court in a bunch of writ petitions including WP (C) 3435 of 2013 and other connected cases. The Division Bench of Delhi High Court partly allowed those writ petitions to the extent that payment of arrears to the retirees was restricted for the period commencing from one year preceding to the filing of Original Applications, though it was directed that their pay be stepped-up notionally. The Review Application filed by the retirees for non-restrictions of arrears was also dismissed by Delhi High Court.

[7] The Chandigarh Bench of the Tribunal also allowed the claim of the respondents following the above-cited decision of Bangalore Bench of the Tribunal. Against that order, the Union of India earlier came to this Court but the writ petitions were withdrawn with liberty to file Review Applications. Thereafter Review applications were filed which have been dismissed by the Tribunal vide order dated 21.01.2015.

[8] Still aggrieved, the instant writ petitions have been filed.

[9] We have heard learned counsel for the petitioners as well as the respondents who are on caveat.

[10] In our considered view, the question of entitlement of the respondents for stepping-up of their pay at par with their junior(s) is no longer res integra. In the light of the consistent view taken by different Benches of the Tribunal, Delhi High Court, duly approved by the Hon'ble Supreme Court, there is no scope left for Union of India to continue to re-agitate the issue and we decline the same on merits.

[11] As regard to second issue as to whether the respondents are entitled to arrears of pay as directed by the

Tribunal, we find some merit in the petitioners' contention. We say so for the reasons that most of the respondents admittedly retired from service on attaining the age of superannuation on different dates during the years 1999 to 2011. The first order by the Bangalore Bench of the Tribunal was passed way back in the year 2000. The respondents did not opt to raise this issue even thereafter and they filed the Original Application in the year 2011 only. In these circumstances, it appears to us that the respondents cannot be held entitled to arrears of pay from the date the anomaly occurred. The uncertainty, if any, with regard to entitlement of the respondents for the removal of anomaly came to an end when SLP in the matter arising out of the Madras Bench of the Tribunal was dismissed by the Hon'ble Supreme Court on 01.10.2009 without leaving the question of law open. The petitioner-authorities were expected to give effect to the order of the Courts as the issue was no longer left open for any consideration or discussion. Taking into consideration all the facts and circumstances including the fact that the respondents chose to approach the Tribunal in the year 2011, we direct the petitioner-authorities to fix their pay w.e.f. 01.01.2010. The arrears of pay shall be paid to the respondents within a period of four months from the date of receiving a certified copy of this order.

[12] Ordered accordingly.

[13] Dasti.

[SURYA KANT]
JUDGE

May 06, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE