

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION 2802 OF 2020

Satish Ramrao Kate,
aged about 74 yrs, Occ. Pensioner,
r/o. 24/A Vidya Vihar Layout,
Pratap Nagar,
Nagpur 440 022

.....PETITIONER

..V E R S U S..

1. Union of India
through its Secretary, Ministry of Mines,
Shastri Bhavan,
New Delhi 110 001

2. Controller General,
Indian Bureau of Mines,
Indira Bhavan, 2nd Floor,
Civil Lines, Nagpur 440 001

..RESPONDENTS

Mr. M.M. Sudame, counsel for petitioner.
Mr. S.A. Chaudhary, counsel for respondents.

CORAM:- ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.
DATE : 03.02.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Rule. Rule made returnable forthwith. Heard finally
with consent of the parties.

2. We find it apposite to extract the prayer clause of
Original Application 2014/2020, which the petitioner

preferred before the learned Central Administrative Tribunal (CAT), Mumbai.

“(i) call for the relevant concerned records relating to the applicant’s family pension case and to peruse;

(ii) direct the Respondent No. 2 to make revision of pension of the applicant by fixing notional pay correctly taking into account the IVth Pay Commission’s pay scale 2200-4000, with Pay Commission’s pay Scale Rs. 8000-13500, VIth Pay Commission pay scale Rs. 15600-39100 with Grade Pay Rs. 5400 under Pay Band-2 and 7th Pay Commission Level-7 @ 67,000/- in accordance with law, and accordingly, calculate and pay arrears of pension with effect from revision of pension from 1.1.2006 to the date of its payment with interest @ 18% per annum;

(iii) allow the O.A. with cost; and

(iv) any other relief which may deem fit by this Hon’ble Tribunal in the interest of justice.”

3. The learned CAT observed that the petitioner failed to demonstrate how the petitioner is justified in seeking equivalence in pay scale after having retired from service, particularly, when the pay scale was granted to the petitioner in view of the acceptance of as many as four successive pay commissions. The reference is to the 4th, 5th, 6th and 7th Pay

Commissions. We may fruitfully extract the relevant observations in the judgment of the learned CAT.

“4. It is also observed that the applicant commenced who was born on 24.5.1946 commenced service with the respondents as Junior Technical Assistant, Mining on 23.11.1967 was promoted in 1978 as Senior Technical Assistant (selection grade), as Assistant Mining Engineer Group-B Gazetted in April 1978 and then as Assistant controller of Mines which is Group-A post on Ad-hoc basis on 12.12.1978 and thereafter proceeded on deputation from 1.3.1992 to the Indo Burma Petroleum Company Ltd where he was absorbed after completion of 14 years. He was granted pro-rata pension for the period of government service and now urges that the successive pay commission from the 4th pay commission to the 7th pay commission have not equating these two posts.

*5. The learned counsel for the applicant places reliance upon the judgment of Hon’ble Apex Court in **Jaypal and Others Vs. State of Haryana, reported in AIR 1998 SCC 1504** (Annexure A-10) and further in **Y.K. Mehta and Others Vs. Union of India, reported in AIR 1988 SC 1970** (Annexure A-11) to argue the principal of “equal work, equal pay”.*

6. However, the learned counsel for the applicant has failed to demonstrate as to how the applicant has been seeking equality and that too after the recommendation of successive four CPCs who are supposed to be the experts on the subject. The applicant has also not brought on record the nature of duties, source of appointment, recruitment rule etc to show that

the equality which he is claiming is really sustainable in the eyes of law.

7. It will not be out of context to note that admittedly four CPCs i.e. 4th, 5th and 6th and 7th CPC have considered the pay scales to be admissible to the employee including the applicant in the relevant posts and the recommendation of such CPCs and keeping in view the same the Government has and passed necessary rules. None of the rules or the recommendations of the CPCs are under challenge or has been brought to our notice.

8. The applicant has also not been able to show any hostile discrimination to warrant interference by this Tribunal in the matter of grant of a particular pay scale”.

4. We further find, in addition to the reasons recorded by the learned CAT, that the petitioner raised the grievance belatedly only after he was superannuated.

5. The learned counsel Mr. M.M. Sudame did submit that the cause of action accrued to the petitioner only after the pension was determined. We are afraid, we cannot agree. Pension is ultimately determined on the basis of the last pay drawn. What in essence was challenged before the learned CAT was the discrepancy in the pay scale assigned to

the petitioner on 1.1.1986.

6. We find no reason to interfere in writ jurisdiction.
The petition is dismissed.

7. Rule discharged.

(Y.G. Khobragade, J.)

(Rohit B. Deo, J.)

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