

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

WP.CT 65 of 2015

Taraprasanna Pal and others.

Versus

Union of India and others.

For the Petitioners : Mr. Jayanta Kumar Pain

For Union of India : Mr. Imran Siddiqui

Judgement Delivered On : 28.02.2025

Supratim Bhattacharya, J.:

1. The petitioners have preferred the present writ petition being aggrieved by and dissatisfied with the order dated 31.07.2014 passed by the Central Administrative Tribunal Calcutta Bench, Calcutta (hereinafter to be referred to as the Tribunal) in Original Application No. 257 of 2011 (hereinafter to be referred to as the Application).
2. Through the said Application the petitioners had sought for the following reliefs:

“a) Leave to file and process this application jointly under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 as the applicants have a common interest in the matter.

b) i) Restoration of original designation Sanitary Inspector/Health Inspector with consequential implementation of scale of pay of Rs. 5500-9000/- as

recommended by the 5th Central Pay Commission till retirement

ii) Consequential benefits of such implementation.

iii) Costs. ”

- 3.** The Ld. Tribunal through the impugned order has dismissed the application being time barred by stating the following:

“... Hence, the OA is accordingly dismissed as being highly time barred. No costs”

4. Factual matrix of the instant lis

According to the petitioners they were initially appointed as Health Inspector/ Sanitary Inspector in the rural health unit and training centre under All India Institute of Hygiene and Public Health and subsequently they have been re-designated as health Assistant (Male) in the year 1994. Though they have been performing the same work as they used to perform during the time when they were posted as Health Inspector/ Sanitary Inspector but after their post being re-designated they are receiving less salary than the persons who are posted as Health Inspector/ Sanitary Inspector in other departments.

- 5.** Being aggrieved by such discrimination the petitioners made several representations but being unable to obtain any fruitful result they preferred an application before the Tribunal being OA 161 of 2006 and had prayed for restoration of their original designation that is sanitary/health inspector and consequently

implementation of scale of pay of Rs. 5000-9000/- till their date of retirement. This being the first round of litigation. The said application was disposed of by the Tribunal vide order dated 09.04.2008 by advising the petitioners to seek necessary reliefs before the concerned administrative department of the Government as according to the Tribunal, the Tribunal could not pass any order.

“8. After careful consideration we find that this Tribunal cannot pass any order to change the designation and consequently to grant the scale of pay claimed by them. it is submitted that they have made some representations which are pending consideration before the Anomaly Committee. A Central Pay Commission is now in seisin. It is not brought to our notice whether the claim of the applicants has been placed before the Central Pay Commission or otherwise.

9. In the circumstances, the applicants, if so advised. may seek necessary relief before the concerned Administrative Department of the Government. The Tribunal cannot pass any order as mentioned above. The O.A. is accordingly disposed of. No order as to cost.”

Against the aforesaid order passed by the Tribunal one of the petitioners preferred a writ petition being WP.CT 165 of 2008. A coordinate bench of this Court vide order dated 17.07.2008 passed the following order:

“If any representation has been made to the Anomaly Committee by the respondents/applicants (before us) ventilating their grievances, the same may be

disposed of, if not done already, by the Anomaly Committee within a period of three months from the date of communication of this order. The observations and findings of the learned Tribunal will not be a decisive or influencing factor to take a decision by the Anomaly Committee on this question. All points are kept open. The Anomaly Committee is first to look into the point which is within their competence to decide this dispute or not. If it finds that it is within their competence then upon hearing the applicants as well as the concerned respondents the matter may be disposed of by passing a speaking order. This shall be done within a period of twelve weeks from the date of communication of this order.”

Thereafter the anomaly committee disposed of the same through a meeting held on 02.12.2009 and conveyed the same on 11.12.2009 by stating that ***“this dispute does not fall under the purview of this committee. As such, the institute has been advised to convey the decision of this Anomaly Committee to the High Court of Calcutta accordingly.”***

Being not satisfied the petitioners preferred an application for contempt being CPAN 791 of 2009. The coordinate bench of this Court which has passed the original order on 17.07.2008 vide order dated 20.12.2010 passed the following.

“We think that this issue cannot be decided by this Court as it gives rise to separate cause of action for which is the petitioner is given liberty to approach the learned Tribunal within two months from the date of receipt of copy of this order. We hope that the learned Tribunal, if approached, shall decide the

matter, once for all, whether the issue has been decided in true sense or not.

With the aforesaid observations the contempt application (CPAN 791 of 2009) stands disposed of. There will be no order as to costs.”

6. Subsequently the petitioners preferred another application before the Tribunal being O.A. 257 of 2011 and sought for the following reliefs:

“a) Leave to file and process this application jointly under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 as the applicants have a common interest in the matter.

b) i) Restoration of original designation Sanitary Inspector/Health Inspector with consequential implementation of scale of pay of Rs. 5500-9000/- as recommended by the 5th Central Pay Commission till retirement

ii) Consequential benefits of such implementation.

iii) Costs. ”

7. This application has been disposed of by the Tribunal by passing the following order which is the impugned order.

“After discussing those issues threadbare on all the angles, the official side and the staff side were of the opinion that the concerned matter does not fall under the competence of this Anomaly Committee on two factors i.e. “(i) the mandate of this Anomaly Committee is to examine and consider issues arising out of implementation of 6th CPC recommendations and (ii) this issue pertains to the restoring of their original designation by re-designating their post and providing consequential benefits by implementing the pay scale of Rs. 5500-9000/- as recommended by the 5th CPC to this post till their date of retirement and since no anomaly could be found as long as the

scale Rs. 5500-9000/- is granted, this dispute does not fall under the purview of this Committee” (para 7 of the Minutes).

It is thus clear that the Anomaly Committee’s terms of reference for 5th CPC was over and the order of the Hon’ble High Court, Calcutta could not be complied with by the Administrative Department. In fact the Government of India have decided now to appoint the 7th CPC vide notification dated 28.02.2014.

Hence, the OA is accordingly dismissed as being highly time barred. No costs.”

8. The Ld. Counsel namely Mr. Jayanta Kumar Pain representing the petitioner has submitted that the petitioners were initially appointed as Sanitary Inspector/ Health Inspector and subsequently in the year 1994 they have been re designated as Health Assistant (Male). Though the petitioners are performing same work now also which they used to perform when they were designated as Sanitary Inspector/ Health Inspector but the scale of pay is not equivalent to the persons who are working in other departments like the port and the airport in the category of Sanitary Inspector/ Health Inspector. He has further submitted that the persons who are now posted as Sanitary Inspector/ Health Inspector they are receiving the pay scale of Rs. 5500/-- 9000/- whereas this petitioners are unfortunate to be receiving much less pay scale.

He has further submitted that the petitioners have made several representations prior to approaching the Tribunal initially and since the first round of litigation before the Tribunal the petitioners have been continuously carrying on legal proceeding to achieve their goal but the Ld. Tribunal has wrongly dismissed the application being highly time barred.

This being the position the Ld. Counsel has prayed for setting aside the impugned order passed by the Ld. Tribunal.

9. The Ld. Counsel Mr. Imran Siddiqui representing the respondents submitted that the petitioners are not entitled to any relief as sought for as they had been given the liberty to seek relief arising out of new cause of action but the petitioners have not prayed for any such relief instead the petitioners have prayed for reliefs which they had sought for during the first round of litigation which have been earlier decided.

Banking upon the same the Ld. Counsel has submitted that the order passed by the Ld. Tribunal is in accordance with law and does not need any interference.

10. Moot point for consideration

The Tribunal has considered the prayer of the petitioners and the stand of the respondents and upheld the decision of the Anomaly Committee that the mandate of the Anomaly Committee to examine the issues arising out of implementation of C.P.C.

recommendations, or the claimed relief for redesignating the applicant's post and consequential benefits as per recommendations made by the 5th C.P.C. does not fall within the purview of the Committee.

11. The consideration of the Anomaly Committee is contained in the Minutes of the departmental Anomaly Committee held on 02.12.2009. If the petitioners were aggrieved by this finding recorded on the petitioner's representation, they were required to assail the same in O.A. No. 257 of 2011. The petitioners, however, have sought relief in O.A. No. 257 of 2011, as noted above, which does not include a challenge to the Minutes dated 02.12.2009. The petitioners have claimed the above noted relief which are identical to the relief claimed by them in the earlier O.A. No. 161 of 2006 filed by them. Once, the Tribunal has rejected the same relief in the proceedings arising out of O.A. No. 161 of 2006, there is no occasion for the applicants/ petitioners to again seek the same relief, more so since the same relief was rejected by the Tribunal in O.A. No. 161 of 2006 by holding that the Tribunal cannot pass any order to change the designation and grant the consequential scale of pay claimed by them.

12. On this ground alone we find that the second O.A. bearing O.A. No. 257 of 2011 filed by the present petitioners/ applicants was fit to be rejected.

13. As such the order of the Ld. Tribunal requires no interference, the present writ petition being No. **WP. CT 65 of 2015** is **dismissed without any cost**.

14. Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.

15. Urgent certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I Agree,

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)