

10

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

New Delhi: this the 17th day of December, 2002.

O.A. No. 217 of 2002

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46 Sudha Mahar
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69 Gian Chand
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(10)

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78 Lila Nand
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79 Mitter Sain
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80 Sarwan Kumar
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81 Ram Pyare
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85 Jhuna Shah
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86 R K Sharma
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87 M P Singh
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88 Ramesh Kumar
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89 Srinarayan meena

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90 Hariom Sharma
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91 Satish Kumar-II
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92 Gobind Lal
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93 N P Verma
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94 Mam Chand
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95 Roop Chand
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96 Lal Chand-VI
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97 Din Dayal Sharma
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98 Chattar Singh-III
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99 C Natrajan
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100 Amar Chand Bhatia
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101 Ram Kishan-II
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102 R.B.S. Yadav
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103 M M Mishra
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104 Giani Ram
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IGI TMO
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105 Attar Singh-III
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106 V K Gupta
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107 Bal Krishan Sharma-I
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134 Satya Prakash-I
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135 Mohan Lal-IV
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136 Labh Singh
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137 JAGAN NATH-ii
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138 Chander Kishor
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139 Dhir Singh
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140 A K Sushil
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(18)

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(19)

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158

(20)

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(22)

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(By Shri M.N.Krishnamani, Ld, Sr. counsel along with Ms.Promila Choudhary and Mr.Yash Anand)

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(By Shri R.P.Agarwal, Advocate)

..RESPONDENTS

O R D E R (ORAL)

By Smt. Lakshmi Swaminathan, Vice-Chairman.

This application has been filed by 198 applicants who are working in various grades i.e. the Lower Selection Grade (LSG)/Time Bound one Time Promotion (TBOP) and Higher Selection Grade-II (HSG)/Biennial Cadre Review (BCR) as seen from the memo of parties. Some of the applicants are also working as Postal Assistants (PAs) and Sorting Assistants (SAs). They have claimed the following main reliefs:

- a) Appropriate directions may be issued to respondents to remove the discrimination meted out to the Applicants herein by granting the applicants the same pay revision which was granted to their counter-parts who are normal promotees at the level of IPO and ASPO i.e. by revising their pay-scale into Rs. 5500-175-9000 at LSG level and Rs. 6500-200-10500/- at HSG level;
- b) Issue appropriate directions to the respondents to grant the Relief (a) above with retrospective effect i.e. from 1.1.96 as given to their counter parts referred to above;
- c) Issue appropriate directions directing the respondent to pay arrears pay payable to the applicants in accordance with Reliefs (a) & (b) above.

2. The brief relevant facts of the case are that according to the applicants they were recruited as PAs and SAs. After completion of satisfactory service of 16 years, the Departmental Promotional Committee (DPC) had promoted them to the higher grade

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of LSG under the TBOP Scheme and further, on completion of 26 years of service the incumbents were promoted to the next higher grade, that is, HSG-II under the BCR Scheme. According to the learned senior counsel for the applicants, applicants are performing the same duties and shouldering the same responsibilities as Inspectors of Post Offices (IPOs) and Inspectors of Indian Railway Mail Services (IRMs). Their grievance is that after promotion under the TBOP Scheme and BCR Scheme, they are placed in the pay scale of Rs.4500-7000 and Rs.5000- 8000, respectively, after the Vth Pay Commission's recommendations had been accepted by the respondents. On the other hand, the IPOs/IRMs are placed in the pay scale of Rs. 5500-9000 and Assistant Superintendent of Post Offices(ASPOs) / Assistant Superintendent of Railway Mail Services (ASRMs) are placed in the pay scale of 6500-10500, respectively, Learned Senior counsel has submitted that such an anomaly cannot be allowed to exist.

3. Learned senior counsel has relied on the recommendations of the Dutta Committee which was submitted on 17.12.1998. This Committee had been set up by the respondents to examine the issues arising out of the implementation of the Vth Pay Commission's recommendations. He has submitted that this Committee, after examining all the relevant facts and taking into consideration the submissions made by the employees, that is, the General Secretary, All India Postal Employees' Union Class III, who was included in

82

the Committee as a Member, had recommended the following pay scales for LSG and HSG II grades:

LSG Rs. 5500-8600

HSG-II Rs. 6500-9500

He has also submitted that after the 1st and 2nd Pay Commissions' Reports, these posts were in an identical pay scale and after the 3rd Pay Commission's Report, they were almost in the same pay scales. After the 4th Pay Commission they were again placed in the identical pay scale but after the 5th Pay Commission's Report the disparity had occurred in the pay scales.

4. After submission of the report by the Dutta Committee on 17.12.1998, it is seen from the reply filed by the respondents that the Government of India had constituted a further Internal-Departmental Committee on 21.7.2000 consisting of representatives from the Department of Posts, the Department of Personnel and Training and the Department of Expenditure (Ministry of Finance). The Inter-Departmental Committee considered the recommendations of the earlier Committee, that is the Dutta Committee, which had representatives of the employees' Union regarding the matter of pay scales and submitted its report on 18.11.2000. It is stated that this report did not unanimously support any modification in the existing pay scales.

5. Learned Senior Counsel has also referred

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to the method of promotion under the TBOP Scheme issued by the respondents on 17.12.83 and also the fixation of pay in the next higher pay scale. He has submitted that a DPC had to be held for considering the persons who have completed 16 years of service for promotion to the next higher grade. He has also submitted that as these persons shoulder the same responsibilities, there is no reason why disparity should be maintained in the pay scales of the persons who have been promoted to LSG and HSG grades who are on par with IPSs/ASPOs who have been granted higher pay scales of Rs. 5500-9000/- and Rs. 6500-10500/-, respectively.

6. We have seen the reply filed by the respondents and heard Shri R.P. Agarwal, learned counsel. He has submitted that the PAs/SAs are eligible for promotion as IPOs/IRMs and the claims for parity should, therefore, be between IPOs and LSG who come within the TBOP Scheme. He has also submitted that the issues raised by the applicants in the present OA have not only been considered by the Department but have also been considered by several expert bodies, including experts in the Dutta Committee and the Internal-Departmental Committee which have been set up, who have not found in favour of the applicants' claim for parity in the pay scales.

7. The respondents have submitted, inter alia, that the duties performed by the officials like the applicants promoted under the TBOP/BCR Scheme and

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by IPOs/ASPOs are different since the former perform operative duties and the latter perform supervisory duties. In the letter issued by the respondents on 17.12.83 regarding the TBOP Scheme, a reference has been made by the learned Senior Counsel to paragraph 22(iv) in which it has been provided that "the officials who complete 16 years of service and who are promoted to next higher scale of pay will continue to perform operative duties unless they are posted to regular supervisory posts in their turn". No such orders have been shown to us by the applicants that they were promoted to regular supervisory posts. According to the respondents, applicants who have obtained the benefit of financial upgradation under the TBOP Scheme perform the same duties as are performed by the PAs/SAs in the pay scale of Rs. 4000-6000, inspite of being placed in the higher scale of Rs. 4500-7000/5000-8000 after completion of certain specific years of service as provided in the Scheme. Learned counsel for the respondents has, therefore, submitted that in the facts and circumstances of the case, the Tribunal ought not to interfere in the matter or grant the reliefs which have been considered but not granted by the expert bodies mentioned above.

8. The applicants have filed a rejoinder and we have also heard learned Sr. Counsel in reply.

9. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

18

10. Having regard to the above facts and circumstances of the case, we find no merit in this application in the light of the settled position of law as laid down by the Hon'ble Supreme Court in a catena of judgments (see State of UP Vs. J.P. Chaurasia (AIR 1989 SC 19=(1989) 1SCC 121); Supreme Court Employees Welfare Association Vs Union of India (AIR 1990 SC 334); State of Uttar Pradesh & Ors Vs. Ministerial Karamchari Sangh (JT 1997 (8) SC 415); Union of India and Anr. Vs. P.V. Hariharan and Anr. (1997 SCC (L & S) 838). It would be relevant and sufficient to refer to one of the judgments of the Hon'ble Supreme Court in Hariharan's case (supra) which reads as follows:-

"Quite often the Administrative Tribunals are interfere with pay scales without proper reasons and without being concious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon the issue. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scale".

(emphasis added)

11. In the present case it is relevant to note that not only the expert bodies like the earlier Central Pay Commissions had not given parity in the pay scales of PAs/SAs/IPOs and IRMS as claimed by the

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applicants, even the Special Committee set up by the respondents, i.e. Dutta Committee which also had representatives of Employees Union did not do so. The recommendations of Dutta Committee had not considered it fit to grant parity in the pay scale which is agitated by the applicants. Thereafter, a second inter-departmental committee had been set up by the respondents who had again considered the issues raised by the applicants in the OA. They had also not given any such relief, taking into account the relevant facts and issues so as modify the pay scales as recommended by the 5th Pay Commission. Therefore, following the aforesaid judgements of the Hon'ble Supreme Court, we do not consider that this is a fit case, where the applicants have made out any case to justify any interference with regard to grant of pay scales.

12. A passing reference had also been made by the learned senior counsel that the applicants are aggrieved by the TBOP Scheme which came into force in 1983 vis-a-vis another scheme i.e. the Assured Career Progression (ACP) Scheme which has been introduced by the Govt. of India in all the Departments in August 1999, following the recommendations of the 5th Pay Commission. The applicants have already obtained the benefits under the TBOP Scheme and their comparison with a later Scheme which came into force 16 years later

does not assist them. Further, there are also no pleadings on this and we do not, therefore, wish to make any comments on this matter, as this issue has not been directly raised.

13. In the result, for the reasons given above the OA is devoid of merit and is dismissed. No order as to costs.

Amuly
(S.K. Malhotra)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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