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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1303 OF 2002
M.A. No. 1036 OF 2002

New Delhi, this the 19th day of May, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Balwan Singh,
2. Sukbir Singh,
3. Desraj,
4. Balraj,
5. Amar Pal,

All working as Barbers in Central Jail
Tihar, C/o Superintendent of Jail,
Tihar, New Delhi.

.....Applicants

(By Advocate : Shri Ajay Bhat)

Versus

1. Government of N.C.T. of Delhi
through Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Union of India through
the Secretary of Home Affairs,
New Delhi.
3. Inspector General of Prisons,
Govt. of N.C.T. of Delhi,
Tihar, New Delhi.

.....Respondents

(By Advocate : Ms. Rashmi Chopra)

O R D E R

Shri Justice V.S. Aggarwal, Chairman :

MA 1036 of 2002

MA 1036 of 2002 is allowed subject to just
exceptions. Filing of a joint application is
permitted.



OA 1303 of 2002

The applicants are working as Barbers in the Central Jail, Tihar. By virtue of the present application, they seek parity in pay scales, allowances and other benefits with the Delhi Police Barbers from the date their pay scales were revised upwards. The facts alleged by the the applicants are that the nature of duties performed by the Barbers in the Central Jail, the prescribed qualification for their recruitment and other conditions of service are identical or even more onerous than those of the Barbers working in Delhi Police. There is anomaly and they have been placed in a lower scale. They contended that the Head Warders and Warders of Central Jail had approached this Tribunal seeking parity of pay and allowances with the Head Constables and Constables of Delhi Police and the said application had been allowed. According to the applicants, there is no ground, therefore, to treat them differently.

2. In the reply filed, the application has been contested. It has been pointed that if at one point of time, the Barbers in the Prison as well as in Delhi Police were getting the same pay scales, the same does not entitle the Prison Barbers to get the same pay scale as is being given to the Barbers in Delhi Police. From time to time, the Pay Commission have given their recommendations on the pay scales to

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various categories of employees. So far as Delhi Police is concerned, they were given the pay scale higher than what was the replacement scale. The applicants cannot equate themselves with Warders and there is no parity in the nature of work of the Barbers in Delhi Police and the Barbers of Central Jail.

3. The law has started taking shape with the decision of the Supreme Court rendered in the case of **Randhir Singh v. Union of India and others**, AIR 1982 SC 879. The principle of 'equal pay for equal work' had been pressed into service and the Supreme Court held that drivers of Delhi Police were discharging the same duties as other drivers in the service of the Delhi Administration. In accordance with Article 14 read with Article 39(d) of the Constitution pay parity was allowed.

4. Same principle was again put into service in the case of **P.K. Ramachandra Iyer and others v. Union of India and others**, AIR 1984 SC 541. In the said case, the Supreme Court held that there were unequal scales of pay which were based on no classification and, therefore, the principle of equality enshrined under Article 14 of the Constitution would be violated.

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5. Similarly in the case of **Federation of All India Customs and Central Excise Stenographers and others v. Union of India and others**, (1988) 3 SCC 91, there were different pay scales fixed for Stenographers Grade I working in the Central Secretariat and those attached to heads of subordinate offices on the basis of the recommendation of Pay Commission. The Supreme Court held that this did not violate the principle of 'equal pay for equal work'. In paragraph 7 of the judgement, the Supreme Court enunciated the principle. Thereafter, the Supreme Court while referring to the decision in the case of **Randhir Singh (supra)** further held that the stand of the Government that circumstances exist differently in different departments would be sufficient to justify different scales of pay and equation of posts and equation of pay are matters primarily for the executive Government and expert bodies like the Pay Commission to decide. The contention that there had to be similar scales of pay for those Stenographers accordingly had been rejected.

6. Once again in the case of **A. Vasudevan Nair and others etc.etc. vs. Union of India and others**, AIR 1990 SC 2295, the Section Officers in Indian Audit and Accounts Department were claiming the same scale as Section Officers in the Central Secretariat. When the principle of 'equal pay for equal work' had been pressed, the same had been rejected. In the case of

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Grih Kalyan Kendra Workers' Union v. Union of India and others, (1991) 1 SCC 619, it was further admitted that equality in employment cannot be viewed with mathematical precision.

7. From the aforesaid, it is obvious that the principle of 'equal pay for equal work' is not expressly declared by the Constitution to be a fundamental right but is a constitutional goal. 'Equal pay for equal work' means equal pay for all discharging similar duties and when there is no other factor to make any difference with respect to duties, the question of equation of posts and their salaries are primarily to be decided by the executive Government and the expert bodies like the Pay Commission. Only where all things are equal and all relevant considerations are the same, persons holding identical posts should not be discriminated.


8. In the present case in hand, the applicants are working as Barbers in the Central Jail. They claim equal treatment in terms of pay with Barbers in Delhi Police. We find difficult to subscribe to the contention that merely because all of them are Barbers, they have to be given equal treatment in pay. There is always difference in the nature of duties that are performed by an individual. They are working in different departments. In the normal circumstances as already referred to above, it

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is for the administration and the expert bodies to decide about the pay scales. Once an expert body like the Pay Commission or a Committee in this regard comes to a conclusion that there has to a different pay scale, necessarily unless it is shown that there is total discrimination which is not in the present case, there is little scope for interference and consequently merely because they all are Barbers is not a ground in peculiar facts of this case that there should be equality of the pay scales.

9. Resultantly, we find that the present application is without any merit and accordingly is dismissed. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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