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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 1385/2002

Date of Decision 16.10.2003

T.C. Chawla ... Applicant

Shri E.K. Joseph, Sr. ... Advocate for the Applicant
counsel with Shri S.C. Luthra

VERSUS

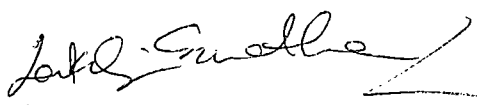
UGI and ors. ... Respondents

Shri R.N. Singh Advocates for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Saxweshwar Shrivastava, Member (A).

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other
Benches of the Tribunal? No


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1385/2002

New Delhi this the 16th day of October, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri Sarveshwar Jha, Member (A).

T.C. Chawla,
S/o Shri Daulat Ram,
Retd. Asstt. Director,
Aviation Research Centre (ARC),
R/o B5/57, Safdarjung Enclave,
New Delhi.

... Applicant.

(By Advocates Shri E.X. Joseph, senior counsel with Shri
S.C. Luthra)

Versus

1. Union of India, through
The Cabinet Secretary,
Rashtrapati Bhawan,
New Delhi.

2. Director General (Security),
East Block V,
R.K. Puram,
New Delhi-110 066.

3. Director Aviation Research Centre,
East Block V,
R.K. Puram,
New Delhi-110 066.

... Respondents.

(By Advocate Shri R.N. Singh)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

The applicant is aggrieved by the order issued by the respondents dated 23.7.2001 rejecting his claim for grant of the revised pay scales on par with CBI officers.

2. The aforesaid impugned order has been passed by the respondents in reference to the judgment of the Tribunal dated 18.1.2001 in OA 2165/2000. The applicant seeks a direction to the respondents to place him in the pay scale of Rs.2200-3500 as Senior Field Officer (SFO)

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w.e.f. 1.1.1986, with a further direction to them to place him in the pay scale of Rs.4100-3500 instead of Rs.3000-4500 as Assistant Director (AD) w.e.f. 2.8.1987.

3. The brief relevant facts of the case are that after the Chinese aggression in 1962, Government of India decided to reorganise its intelligence set up by creating a new Department, that is the Directorate General of Security (DG (S)). The newly carved DG (S) functioned as a part of Intelligence Bureau (IB) and most of its staff was drawn from IB or taken on deputation from various State Police Forces, Army, etc. Later on, IB was bifurcated into two wings, that is IB and Research and Analysis Wing (R&AW) and DG (S) was made a part of R&AW instead of IB. According to Shri E.X. Joseph, learned senior counsel for the applicant, the pay scales for all ranks in IB and R&AW, including that of the CBI were the same although the nomenclature of the posts might have been different for security considerations. He has submitted that except the 4th Pay Commission which did not make any recommendations for the staff of IB, the same pay structure had existed for all these organisations. He has referred to the extracts of the recommendations of a Committee under Shri Sankaran Nair, IPS (Retd.) which was constituted for looking into various grievances of the IB Officers (Annexure A-6). These recommendations pertain to certain allowances to be paid in respect of IB and R&AW officers and during the hearing, it was submitted that these recommendations do not as such pertain to the revision of the pay scales which is the main prayer of the applicant. On behalf of the applicant, it was argued that a distorted picture was projected before the 4th Pay Commission giving an

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impression that the aforesaid Committee had also recommended the revised pay scales. Reference has been made to paragraph 10.253 of the 4th Pay Commission's recommendations in which certain orders issued by the Government in January, 1986 and May, 1986 revising the pay scales, deputation allowance, special pay and other allowances of a large number of posts in IB have been referred to. These orders of the Government have not been placed on record although much reliance has been placed on the recommendations of the 4th Pay Commission in this paragraph. Therefore, it is not possible to categorically come to the conclusion as to the context in which the recommendations of the 4th Pay Commission have been made in the absence of the relevant documents referred to in that paragraph.

4. The learned senior counsel for the applicant has submitted that the persons similarly situated like the (DG) (S) (ARC) were getting similar pay scales as officers in CBI prior to 1986 and again after the recommendations of the 5th Pay Commission from 1997. However, since the applicant has retired on superannuation w.e.f. 31.10.1987, he has not got the benefit of the revision of the higher pay scale only because the respondents had given a distorted picture to the 4th Pay Commission which was continued before the 5th Pay Commission which had also recommended the revised pay scale only with effect from 1.1.1996. This, therefore, does not take care of the case of the applicant who had retired prior to the coming into force the recommendations of the 4th Pay Commission.

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5. Learned Senior Counsel has also referred to the Government of India, Ministry of Finance (Department of Expenditure) O.M. dated 6.1.1999 (Annexure A-17). He has submitted that in this O.M., ~~it is submitted that~~^{it is} in determining the revised scales of pay and other benefits, the traditional parities and relativities between the personnel of these Organisations and their counter-parts in the IB, CBI, Central Police Organisations (CPO), Armed Forces, etc. have been duly kept in view. He has submitted that there was no reason why the revised pay scales applicable to officers in CBI of comparable rank should not be given to the applicant.

6. The averments made by the applicant in paragraph 4.11 of the O.A. would be dealt with below on which the learned counsel for respondents had taken serious objections.

7. The respondents in their reply have counted the above averments and have prayed that the O.A. may be dismissed with exemplary costs against the applicant and in their favour. They have submitted that the applicant's pay as AD was fixed in the pay scale of Rs.3000-4500 as recommended by the 4th Pay Commission and approved by the competent authority to the post in ARC. Shri R.N. Singh, learned counsel has submitted that as the applicant has not shown any details of duties, responsibilities, mode of recruitment and other relevant facts to compare with officers in other CPOs like CBI. He has submitted that in the absence of such relevant details, it is settled law that the Tribunal ought not to interfere in the matter of pay scales. He has also submitted that the officers in these various

Departments come under their own Executive Cadres. According to him, in 1962 even R&AW was as a separate entity, later on that organisation was also charged with the responsibility of DG (S). He has submitted that the applicant cannot merely rely on the history of the formation of the various Departments but the cadre structure, pay scales and service conditions have been changed from time to time as required under the administrative exigencies. He has submitted that apart from the recommendations of the 4th Pay Commission and the 5th Pay Commission, the cadre rules of various cadres have been reviewed/modified from time to time. He has strongly objected to the averments made on behalf of the applicant that a distorted picture was projected before the 4th Pay Commission. He has also submitted that before the recommendations of the 4th Pay Commission, the pay anomaly committee had also looked into the grievances of the officers.

8. Another main objection taken by the learned counsel is that nowhere the applicant has shown the parity in duties, responsibilities, mode of recruitment and other relevant factors to claim the parity in pay scales as laid down in a catena of judgments of the Hon'ble Supreme Court. Lastly, he has submitted that the averments made by the applicant in paragraph 4.11 of the O.A against the former Prime Minister of India and former Director of CBI whom he states ^{as} ~~was~~ from Andhra Cadre and necessary orders were issued because of political compulsions in order to placate the CBI staff, were highly objectionable. Learned counsel for the respondents has, therefore, submitted that in the facts and circumstances of the case, as the applicant has not

shown any comparison between IB and DG (S) posts in relation to nature of work, duties and responsibilities which is necessary in such cases, the O.A. may be dismissed with exemplary costs.

9. We have heard Shri E.X. Joseph, learned senior counsel in reply. He has submitted that he had also not approved some of the averments in the O.A. with particular reference to what has been referred to in paragraph 4.11 although no steps were taken to have these portions deleted or amended. He has submitted that otherwise the applicant has a good case for pay parity with other officers in CBI and other police organisations.

10. We find merit in the submissions made by the learned counsel for the respondents that the applicant has not given the position regarding the duties, responsibilities, mode of selection and other parameters to compare with officers in other organisations with whom he claims pay parity. The respondents have stated that while the pay scales of the various Departments referred to in the O.A. were at the initial stage mainly on police pattern, however, over the years their role has undergone a sea change with regard to the cadre structure, pay scales and service conditions from time to time. They have submitted that the ARC is a purely civilian Department following Central Service Rules. In the impugned O.M. dated 23.7.2001, the respondents have specifically stated that the charter of duties are different in different organisations even if there could be similar ranks with different pay scales. They have

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specifically stated that there cannot be any comparison drawn between IB and DG (S) posts of ADS and SFOS with the posts of Supdt. and Deputy Superintendent in relation to nature of work, duties and responsibilities and, therefore, the scales of pay in these two organisations are different. The applicant has not brought out clearly any facts to dispel these submissions of the respondents by way of showing parity in the charter of duties and responsibilities in the different organisations to allow this application. The contention of the applicant that previously the applicant and officers in other police organisations were getting the similar pay scales and that parity has been maintained by the 5th Pay Commission will not by itself be sufficient to allow this application. If, as contended by the learned senior counsel for the applicant, the respondents had indeed not placed the correct facts before the 4th Pay Commission, that position could have been set right by another Expert body, like the 5th Pay Commission.

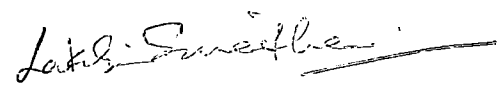
11. The applicant has also not controverted the stand of the respondents that while the cadres in R&AW and ARC are purely civilian Departments, that is not the position in other police organisations with which he wants parity after Departments have been reorganised from time to time. We are also unable to agree with the contentions of the learned senior counsel that a distorted picture was put up before the 4th Pay Commission by the respondents on the basis of the documents on record. The Expert Committee like the 4th Pay Commission obviously had sufficient power at their command to call for the relevant records and give the recommendations in the light of the relevant facts and

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circumstances. In the context of the submissions of the applicant that a distorted picture had been given by the respondents to the 4th Pay Commission, we also note with constraints the further allegations that at the relevant time, the then Hon'ble Prime Minister of India and the former Director, CBI were from the State of Andhra and hence, under political compulsions in order to placate the CBI staff, Govt. of India had settled the issue of revising the pay scales. In any case, such scurrilous and unfounded allegations which are baseless should not be made the basis of the applicant's claim for parity in pay scales. In a catena of judgements, the Hon'ble Supreme Court has repeatedly cautioned the Courts/Tribunal to desist from interfering in such matters unless a clear case of discrimination or inequality is made out. In the absence of the relevant documents showing the duties, responsibilities, mode of recruitment, qualifications and other relevant factors which have to be taken into account in such cases, there is no merit in this application. The allegations of the applicant show that he has not only found fault with the respondents for what he calls as misleading the 4th Pay Commission but also with the recommendations of the 4th Pay Commission itself omitting his case for pay parity in pay scales. These are baseless and are accordingly rejected. His similar allegations against the recommendations of the 5th Pay Commission also do not justify any interference in the matter.

12. In the result, for the reasons given above, O.A. is dismissed with exemplary costs of Rs.5000/- (Rupees five thousand only) against the applicant and in favour of the respondents.


(Sarweshwar Jha)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)