

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

OA No. 1040/2001

Date of decision: 29.7.2003

Bhagwati Prasad & two others .. Applicants

(By Advocate: Shri P.P.Raihan)

versus

Union of India & Another .. Respondents

(By Advocate: Shri R.N.Singh)

CORAM:

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

Hon'ble Shri S.K. Naik, Member (A)

To be referred to the Reporter or not?

YES

S.K. Naik  
(S.K. Naik)  
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1040/2001

New Delhi, this the 29th day of July, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)  
Hon'ble Shri S.K. Naik, Member(A)

1. Bhagwati Prasad  
Senior Proof Reader  
Department of Posts  
Dak Bhawan, Sansad Marg  
New Delhi
2. Kanhaya Lal  
Senior Proof Reader  
Department of Posts  
Dak Bhawan, Sansad Marg  
New Delhi
3. Jagdish Kumar Mallah  
Junior Proof Reader  
Department of Posts  
Dak Bhawan, Sansad Marg  
New Delhi

.. Applicants

(Shri P.P.Ralhan, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Communications  
Department of Posts  
Dak Bhawan, Sansad Marg  
New Delhi
2. Secretary  
Department of Personnel & Training  
North Block, New Delhi

.. Respondents

(Shri R.N. Singh, Advocate)

ORDER

Shri S.K. Naik

Applicants S/Shri Bhagwati Prasad and Kanhaya Lal are working as Senior Proof Readers while Jagdish Kumar Mallah is working as Junior Proof Reader in the department of Posts. Aggrieved by the unsatisfactory revised pay scale recommended in their case by the 5th Central Pay Commission, they initially filed OA 1040/2001. When the matter came before the Tribunal, vide order dated 26.2.2002, the OA was disposed of with the following observations:

Done

92

"4. We dispose of the present OA with a direction to the respondents to pass a detailed, speaking and reasoned order, in accordance with rules and instructions, on applicants' claim within a period of three months from the date of receipt of a copy of this order. If any grievance still survives thereafter, it will be open to applicants to revive the present OA through an MA by also impugning the orders passed by the respondents pursuant to these directions. No costs."

2. Not satisfied with the speaking order passed by the respondents pursuant to the decision stated above, applicants sought revival of the OA, through MA 1890/2002, which was allowed by the Tribunal vide order dated 3.9.2002 alongwith permission to amend the OA. On its revival, the amended OA is now for consideration before us.

3. Brief facts of the case are that applicants No.1 and 2, S/Shri Bhagwati Prasad and Kanhaya Lal, working as Senior Proof Readers were in the pre-revised scale of pay of Rs.1320-2040 while the third applicant Shri Jagdish Kumar Mallah, Junior Proof Reader was enjoying the scale of pay of Rs.1200-1800 (pre-revised). The 5th Central Pay Commission have in para 43.5 of their report, recommended clubbing of a number of posts and merged some of the pay scales so as to ensure direct progression of artisans on the analogy of LDC getting promoted to the post of UDC. The Government accepted the recommendations of the Pay Commission and accordingly the post of Senior Proof Reader was clubbed with that of Junior Proof Reader and was allotted a common nomenclature of Proof Reader. On their merger, a common pay scale corresponding to pre-revised general pay scale of Rs.1200-1800 was assigned to them. The Department, therefore, placed them

Deoak

in the corresponding replacement scale of pay of Rs.4000-6000 which they are now drawing as the revised scale of pay.

4. Clubbing of both junior and senior categories of Proof Readers as also allotment of a common pre-revised pay scale of Rs.1200-1800 and its corresponding revision to Rs.4000-6000 has been the main grievance of the applicants, who feel that they have been meted out with step motherly treatment and hence they seek not only quashing of the impugned order but also a direction to the respondents to grant them appropriate pay scale.

5. The main grounds on which the learned counsel for applicants assails the impugned order dated 19.6.2003 passed by the respondents are that:-

(i) prior to 5th Central Pay Commission, the applicants were enjoying a pay scale higher than Proof Readers in other departments and they have been assigned a scale much lower than what has been given to the others after revision.

In support thereof, he has stated that Proof Readers in the Ministry of Personnel, Public Grievances & Pensions (MoP, PGP) who were in the pre-revised scale of Rs.1200-2040 have been granted the revised scale of pay of Rs.5500-9000 whereas Proof Readers in the office of Registrar General of India (RGI), Ministry of Home Affairs have been granted revised pay scale of Rs.4500-7000 from the pre-revised scale of Rs.1200-1800.

Deek

25

(ii) the applicants are discharging the same work as is being done by Proof Readers in other Departments, shouldering similar responsibilities and the principle of equal pay for equal work should be applicable to them and there is no reason as to why the Government should discriminate them in the grant of pay scale in the matter.

The counsel also has contended that the Hon'ble Supreme Court in a number of decisions has held that where two sets of people in the same cadre are performing the same duties, the principle of equal pay for equal work applies in full measure. Where the relevant considerations are the same, persons holding identical posts and discharging similar duties must not be treated differently in the matter of pay scale merely because they belong to different departments. In this connection he has referred to the cases of P.Savita & Others Vs. UOI 1985(suppl) SCC 96 and Randhir Singh Vs. UOPI 1992(1) SLR SC 756. He has also referred to the case of V.K. Sharma Vs. UOI in which, he has contended that, the Tribunal too has also taken a similar view. He has therefore argued that in the absence of qualitative difference with regard to the duties and responsibilities of the applicants vis-a-vis their counterparts in MoP, PGP and RGI, the action of the department not to grant the same revised scale of pay is discriminatory and arbitrary and needs to be set aside and corrected.

Pradeep

6. The counsel has laid stress also on the summoning of records in this regard for perusal by the Tribunal so as to be in a position to do full justice to the applicants.

7. Learned counsel for the respondents has stoutly defended the impugned order and contended that the applicants have apparently no case in their favour. In support of this contention he stated that firstly, as admitted by the applicants themselves, the 5th Pay Commission did not make any specific recommendation in respect of Proof Readers in the Department of Posts obviously for the reason that it did not find any justification for doing so. He has further rebutted the arguments of the learned counsel for the applicants that the duties, responsibilities and other requirements are at par with Proof Readers in other departments. In any case, this aspect is for the expert body like the Pay Commission to consider. The fact that such considerations have been gone into and there was no parity with the examples quoted is evident from the recommendation of the Pay Commission itself, wherein for the same post of Proof Reader in the RGI, they have recommended the scale of pay of Rs.4500-7000 while in the case of MoP, PGP, they have recommended yet a different pay scale of Rs.5500-9000.

8. In so far as the other requirements are concerned, the counsel has contended that there is no parity in the qualifications and experience required for recruitment to the post of Proof Reader in the Department of Posts vis-a-vis those in the MoP, PGP and the office of RGI, Ministry of Home Affairs. While the basic qualification

7  
Jewalk

required for Proof Readers in the Department of Posts is only matriculation, a minimum of graduation with experience of Hindi/English proof reading for the post in MoP, PGP and 2 years experience in proof reading and technical marking and proficiency in desk top publishing and technology have been prescribed for the posts in the office of RGI. With regard to the method of recruitment, while the posts in the office of RGI are filled through deputation of officers of Central/State Government employees holding analogous posts or atleast 3 years of regular service in posts carrying the scale of Rs.3050-4590, the Department of Posts prescribes filling up of Senior Proof Reader 100% by promotion from the post of Junior Proof Readers who apart from being only matriculates can also come on promotion from the post of Copy Holder. Thus, apart from the nomenclature, no similarity can be drawn between these posts. The counsel has further contended that the post of Proof Reader in MoP, PGP stands abolished and there is no question of applicants seeking parity with a non-existent category.

9. Finally, the counsel has argued that the revised pay scale of the applicants has been recommended by an expert body like the Pay Commission after due consideration and no inference is warranted with particular reference to the applicants. With regard to the contention of the applicants that revised scale does not take them too far and they may stagnate for a long time, the counsel has replied that under the Assured Career Progression Scheme of the government, this aspect has been taken care of.

Deacode

10. In reply to the Supreme Court cases quoted by the counsel for the applicants, counsel for the respondents has stated that the Hon'ble Supreme Court in its judgement dated 12.3.97 in the case of UOI Vs. P.V. Hariharan JT 1997(3) SC 569 has held that:

"We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious 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 full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of 'equal pay for equal' is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixing of pay scales."

In this regard, he has further cited the case of UOI Vs. Makhan Chandra Roy AIR 1997 SC 2391 wherein it has been held as under:

"The equation of posts or equal of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

11. These judgements being of later dates supersede the earlier cases cited by the counsel for the applicants and, therefore, there is absolutely no reason for the Tribunal to interfere in the matter, the counsel has argued.

Jaair

12. We have very carefully considered the arguments advanced by the counsel for both the parties. We find that the applicants feel aggrieved primarily because of the merger of two different scales i.e. Rs.1200-1800 and Rs.1320-2040 and assignment of the lower scale of Rs.1200-1800 after merger resulting in the corresponding replacement scale of pay of Rs.4000-6000 after revision. They further feel discriminated because their counterparts in the MoP, PGP and RGI have been assigned higher scales of pay. The counsel for the applicants has tried to make out a strong case of discrimination. We are, however, not convinced about this. On the question of equating the pay scales, as has been brought out by the learned counsel for the respondents, we find that it has emerged out of the recommendations of the 5th Central Pay Commissions for reasons given by the Pay Commission itself and the Government accepted the same. This has affected not only the Proof Readers in the Department of Posts but the same has been made applicable across the board to all the posts where skilled persons were employed in different scales. It will, therefore, not be appropriate for us to hold that this has affected only the applicants. With regard to comparison drawn with their counterparts in MoP, PGP and RGI, we find that the same is not supported by facts. In MoP, PGP there was no post of Proof Reader when the application was filed as the same had been abolished. In so far as similar posts in the other offices is concerned, we have also perused the R/Rules and other requirements and we find that they are clearly distinguishable. Besides, the method of recruitment is also not comparable. It will, therefore, not be correct to say that the applicants have been

3  
Decade

unduly discriminated. It is also admitted by the applicants that the Pay Commission did not make any specific recommendations in their case. It is difficult for us to believe that it is because the Department did not present their case forcefully before the Pay Commission as has been alleged by the counsel for the applicants that the Pay Commission did not recommend their case, nor is it convincing that because of the small number of posts, the Pay Commission ignored to consider their case.

13. We find that even for a single post in MoP, PGP, the Pay Commission have considered the case and there is no reason why they would not have considered the case of the applicants.

14. Under the circumstances, and keeping in view the apex court decisions supra, we are not inclined to interfere with the impugned order.

15. In the result, we find no merit in the present OA and the same is accordingly dismissed. No costs.

Naik  
(S.T. Naik)  
Member(A)

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

/gtv/