

Central Administrative Tribunal, Principal Bench

Original Application No.1673 of 2001

M.A.No.1422/2001



New Delhi, this the 5th day of February, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. S.R. Adige, Vice Chairman(A)

1. All India CPWD Non-gazetted  
Office Staff Association  
thro': its General Secretary  
'C' Wing Ground Floor  
Near Generator Room, IP Bhawan,  
New Delhi-2
2. J.N. Antil, Office Superintendent  
PWD Circle-VI, MSO Bldg, IP Estate  
New Delhi-2

- Applicants

(By Advocate: Shri G.K. Aggarwal)

Versus

Union of India thro'

1. The Secretary,  
Ministry of Urban Development & Poverty Alleviation  
Govt. of India, Nirman Bhawan,  
New Delhi-11
2. The Secretary  
Ministry of Finance  
(Deptt. of Expenditure)  
Implementation Cell, North Block  
New Delhi-1
3. The Secretary, Deptt. Pers & Trg.  
North Block, New Delhi-1
4. The Director General (Works)  
Central Public Works Department  
Nirman Bhawan, New Delhi-11
5. Additional Secy(UD), Chairman  
Special Anomaly Committee  
M. of Urban Development & Poverty Alleviation  
Nirman Bhawan, New Delhi-11

- Respondents

(By Advocate: Ms. Promila Safaya)

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

M.A.1422/2001 for joining together in a single  
application, is allowed.

2. Facts of the present case can be gathered from

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the order earlier passed by us on 11.7.2001 which is in the following terms:

"Present OA has been instituted by the Office Superintendents working in the C.P.W.D. Pursuant to an arbitration award, Office Superintendents were placed in two pay-scales. 40 percent of the posts were placed in the higher pay-scale of Rs.1640-2900 whereas 60% were retained in the pay-scale of Rs.1600-2660. Since the respondents had failed to implement the aforesaid award, applicants had instituted OA-1231/2000 which was disposed of vide order dated 8.11.2000 with directions to constitute a Special Anomaly Committee to consider the aforesaid claim. The Special Anomaly Committee was accordingly constituted. The matter was ultimately carried to the Ministry of Finance and also to the Department of Personnel and the competent authority namely the Ministry of Urban Development, by the impugned order passed on 25.4.2001, have declined to grant the aforesaid two pay-scales on an assumption that the 5th Central Pay Commission had granted higher pay-scale to all the Office Superintendents. Aforesaid decision of the competent authority at Annexure A-1 is impugned in the present OA. It is, inter alia, contended that the competent authority has misconstrued the recommendations of the 5th Central Pay Commission which has recommended as under:

Designation	Pay Scale		Remarks
	existing	recommended	
Superintendent Gr.II	1600-2660	1640-2900	60 posts to be kept in this scale
Superintendent Gr.I	New level	2000-3500	20 posts to be up-graded to this scale

(The existing 80 posts of Office Superintendent be divided into Gde.II (60 posts) and Gde.I (20 posts)

In view of the aforesaid grievance raised, we direct notices to be issued. List on 3.9.2001 before the J.R. for completion of pleadings."

3. Learned counsel appearing on behalf of the

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applicants has drawn our attention to the Office Memorandum of 25.4.2001 which amongst others, contains the following recital:

"In fact it was not necessary for Vth CPC to stick to the 40:60 ratio, as it had recommended placement of all existing posts in the higher scale of 1640-2900 rather than granting the said scale to only 40% which would have been necessary as per the Award xxx xxx xxx."

4. Learned counsel has further pointed out paragraph 89.25 of the recommendations of the 5th Central Pay Commission which provides as follows:

"89.25 - Having considered the issue, and keeping the view the general recommendations made for ministerial staff in subordinate offices, we recommend following pay structure:

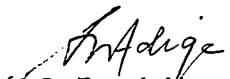
Designation	Pay Scale		Remarks
	existing Rs.	recommended Rs.	
Lower Division Clerk	950-1500	950-1500	No change
Upper Division Clerk	1200-2040	1320-2040	Rationalisation
Head Clerk	1400-2300	1600-2660	As in other subordinate offices
Superintendent Grade II	1600-2660	1640-2900	60 posts to be kept in this scale
Superintendent Grade I	New Level	2000-3500	20 posts to be upgraded to this scale".

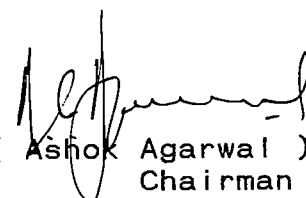
5. The higher pay-scale of Rs.1640-2900, learned counsel has asserted, is the replacement pay-scale to the existing pay-scale of Rs.1600-2660 and not the existing pay-scale. Had the Pay Commission been apprised of the fact that 1640-2900 was also the existing pay-scale, the

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aforesaid pay-scale would have been placed below 1600-2660 and the same would not have found place in the column of replacement scale which is sought to be recommended. Had 1640-2900 been shown as existing pay-scale, its replacement scale would have been 2000-3500. Having regard to this, respondents have factually ~~erred~~ by issuing the impugned office memorandum of 25.4.2001 by proceeding <sup>on</sup> ~~with~~ the assumption that all the Office Superintendents have been placed in a higher pay-scale.

6. In our view, the contention raised by Shri G.K. Aggarwal, learned counsel appearing on behalf of the applicants is undoubtedly justified. Having regard to the present state of things, we find that interests of justice will be duly met by directing the respondents to treat the present OA as a fresh representation and pass fresh orders in terms of the submissions made by the learned counsel and the observations contained in the present order. Present OA is disposed of in the aforestated terms. Respondents are directed to comply with the aforesaid directions within a period of three months from the date of service of a copy of this order. No costs.

  
( S.R. Adige )  
Vice Chairman(A)

  
( Ashok Agarwal )  
Chairman

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