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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1776 of 2001

New Delhi, this the 18th day of ~~April~~ May, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDI)
HON'BLE S.A.T. RIZVI, MEMBER (A)

1. ASI Surender Singh S/o Dev Karan
No. 1257/D, PCR-New Delhi Zone,
New Delhi.
2. ASI Rattan Lal
No. 1169/D, North Zone,
New Delhi.
3. HC Ghanshyam
No. 124/ND, New Delhi.
4. HC Ghasi Ram
No. 21/ND, New Delhi.
5. HC Ram Phal s/o Shri Sumer Singh
No. 824/PCR, New Delhi.Applicants

(By Advocate: Ms. Pinki Anand with Shri Yogesh Sharma,
Counsel)

Versus

1. Union of India through Secretary,
Ministry of Home Affairs,
Department of Central Police Organisation,
New Delhi.
2. National Capital Territory of Delhi
Through the Chief Secretary,
New Secretariat, New Delhi.
3. The Commissioner of Police Headquarters,
Delhi Police, I.P. Estate,
New Delhi

-RESPONDENTS

By Advocates: Shri N.S. Mehta, Counsel for respondent
No. 1

Shri Ajesh Luthra, Counsel for respondent
Nos. 2 and 3.

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (JUDI)

The applicants have assailed an order dated
2.3.2001 (Annexure A-1) passed by Ministry of Home
Affairs, Government of India whereby the Government of

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India had decided to accept the recommendations of the Committee constituted in pursuance of the order passed in an earlier OA filed by the petitioners in OA 218/2000 whereby the respondents had been directed to constitute a special Committee to make recommendations with regard to the pay scale of Head Constables of Delhi Police w.e.f. 1.1.1996 when the pay scale based on the recommendations of the 5th Central Pay Commission were adopted by the police personnel in the neighbouring states.

2. The Committee was constituted considering the various averments made by the applicants before the Tribunal with regard to comparison of their pay scales with the neighbouring states and pay scales of Union Territory of Chandigarh. The Committee also considered the recommendations of the 5th Central Pay Commission as well as other circumstances and facts relevant to the case and concluded that there was no justification to grant any higher scale of pay to the Head Constables of Delhi Police and concluded that there was no justification to grant any higher scale to the personnel of Delhi Police. The reasons given by the Committee were also incorporated in the impugned order.

3. The Government of India decided to accept the recommendations of the Committee as per the reasons given by the Committee itself. It is this order of the Government of India which is being assailed by the applicants.

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4. The OA is being contested by the respondents.

5. We have heard the learned counsel for the parties and gone through the records of the case.

6. Ms. Pinki Anand appearing for the applicants submitted that the 5th Central Pay Commission had given its report that the pay scale of the Delhi Police personnel has nothing to do with the pay scale of Central Police Organisation and their pay scale has to be determined keeping into consideration the pay scales which is being granted to the neighbouring State Police personnel and the Committee constituted in pursuance of the orders passed by the CAT in the earlier OA 218/2000 had failed to consider the pay scale of neighbouring State police personnel, i.e., the report of the Committee is against the report of the Pay Commission and against the findings of the Tribunal. To support his contention, the learned counsel for the applicant has referred to the extracts of the 5th Pay Commissions report which it at page 51 of the paper book wherein in para 70.64 the Pay Commission has observed that they have taken into account the pay scales of Police personnel in neighbouring States. The learned counsel for the applicants submitted that pay scale of the neighbouring states had not been taken into consideration at all. There is a lot of difference between the pay scales of the Head Constables of Delhi Police and as compared to other states and Union Territory of Chandigarh.

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7. It was submitted that in Delhi the pay scale of Head Constable starts from Rs. 975/- and ends at Rs. 1660/- whereas in Chandigarh, Punjab and Himachal Pradesh it starts with Rs. 1260/- and ends with Rs. 2130 whereas in Haryana it starts with Rs. 1200/- and ends upto at Rs. 2040. Besides that the counsel for the applicant also submitted that difference between the pay scale of a Constable and Head Constable at the start of the pay scale in Delhi is only Rs. 25/- whereas in neighbouring state it is Rs. 200/- and above. Thus the learned counsel for the applicant submitted that the Committee so appointed had not considered the pay scales of the neighbouring states and U.T. of Chandigarh.

8. The counsel for the applicants then also submitted that as far the duties and responsibilities of the post of Head Constable in Delhi Police as well as in the neighbouring States is concerned, those are almost similar so it is only the Delhi Police Head Constable who are being discriminated whereas the Head Constables of the neighbouring states are being paid more salary.

9. The counsel for the applicant then referred to Annexure A-14 to show that the workload on the Delhi Police Head Constable as compared to Chandigarh, Haryana and Himachal Pradesh and Union Territory of Chandigarh and submitted that in comparison to all these neighbouring and Union Territory the work load on Delhi Police Constables is much more than all the neighbouring states and for this purpose the applicant had relied upon statistics given by the National Crime Record Bureau.



10. It is also submitted that the Delhi Police and Chandigarh Police both are under the administrative control of Ministry of Home Affairs, therefore, it constitutes a well defined class and particularly the post of Head Constables working in Union Territory of India and, therefore, the classification is not permissible in the light of the law laid down by the Hon'ble Supreme Court in the case of Motor General Traders Vs. State of Andhra Pradesh, AIR 1984 SC 121. Thus the counsel for the applicants submitted that even the pay scales are not compared with the neighbouring states and to compare the scales with neighbouring Union Territories particularly when the Police Personnel of Union Territories come under the Ministry of Home Affairs then the Government of India cannot discriminate and cannot create separate class for different Union Territories.

11. The counsel for the applicants have also relied upon a judgment of the Hon'ble Apex Court in the case of P. Savita and others Vs. Union of India and Others wherein it was held that where all relevant considerations are the same, persons holding identical posts and discharging similar duties should not be treated differently.

12. The applicant then also relied upon the ruling of the Apex Court in the case of Randhir Singh Vs U.O.I. & Others, AIR 1982 SC 879 on the principle of equal pay for equal work and it was held that Articles 14 and 16 may be properly applied in cases of unequal scales of pay based on no classification or irrational classification

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though those drawing different scales of pay do identical work under the same employer, so the Government cannot discriminate against the applicants and other Head Constable who are working under the Union Territories.

13. As against this Shri N.S. Mehta appearing for the respondents submitted that it is a well settled by now that the matters with regard to pay scales are left to the discretion of the Expert Bodies like Pay Commission or the Anomaly Committee or Expert Committees constituted by the Government of India for consideration of grant of higher pay scales. The counsel for the respondents submitted that the applicants cannot compare their pay scales with their counter-parts the neighbouring states because there is a difference of employers. In the case of Delhi Police the employer is Ministry of Home Affairs, Government of India whereas in the case of Punjab, Haryana and Himachal Pradesh the employer is State Government.

14. The counsel for the respondents further submitted that even in the case of Union Territory of Chandigarh, when this Union Territory of Chandigarh was carved out of the Chandigarh and Punjab and it was carved out for a temporary period and that is why the Chandigarh Administration as a special case was allowed to follow Punjab pattern pay scales in service conditions of its employees.

15. It is further submitted that even the Committee constituted by virtue of the order passed by this Tribunal the Committee has specifically considered



the pay scales of Head Constables prevalent in neighbouring states and the order of the Ministry of Home Affairs is specific on that and it shows that the pay scales of neighbouring states has been discussed. The Committee has rightly concluded that the committee is not in favour of the the pay scales of neighbouring states and employees of the Union Territory of Chandigarh.

16. The counsel for the respondents also referred to a judgment given by Court No.1 in the case of OA 3282/2001 Shri Arun Kumar and Others Vs. U.O.I. & Others. The applicants were posted as Technical Assistants in the Directorate of Extension in the Department of Agriculture and Cooperation, Ministry of Agriculture. They were placed in the pay scale of Rs.4500-7000 by virtue of 5th CPC. Prior to the 5th CPC, they were getting the pay scales of Rs.1400-2300 and the Technical Assistants working in the other departments were granted pay scale of Rs.5000-8000. Thus there was anomaly as the applicants was getting pay scale of Rs.4500-7000 whereas the other Technical Assistants were getting the pay scale of Rs.5000-8000. The anomaly was referred to the Anomaly Committee. The said Committee recommended grant of pay scale of Rs.5000-8000 to the applicants also. However, the Ministry of Finance after consideration of the matter decided not to grant the pay scale of Rs.5000-8000. Thus the petitioners continued to get pay scale of Rs.4500-7000. This was challenged in the OA and this court vide a judgment dated 11.12.2001 in which one of us (Hon'ble Mr. S.A., T. Rizvi, Member (A)) was a party, held that [T]he Apex Court and the Tribunal

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have held on several occasions that the Tribunal should desist from issuing directions fixing pay scales. A Full Bench of this Tribunal has also upheld the same position.

17. So relying upon this the learned counsel for the respondents submitted that this Tribunal had earlier given a direction for constituting an Expert Committee and the Expert Committee after taking into consideration the various averments made by the applicants before the Tribunal in the earlier OA 218/2000 and also the recommendations made by the 5th CPC which are heavily relied upon by the applicants, gave various reasons for rejecting the representation of the applicants and did not recommend any change in the recommendations made by the Pay Commission which had also been accepted by the Government of India. In our view also the contentions raised by the applicants for seeking revision of pay scale with effect from 1.1.1986 do not hold good though in the prayer clause the applicants have prayed that the court should give a direction for constitution of Anomaly Committee which should be headed by a High Court Judge retired/sitting to give opportunity to the Head constables for representing their case. We feel that this prayer cannot be granted because in the earlier OA the similar relief had been granted that is why an Expert Committee had been constituted. Now if the Expert Committee after considering all the relevant factors particularly the pay scale of the neighbouring states and Union Territories have reached to the conclusion that no further enhancement of pay scale of Delhi Police Head Constables can be granted so on that score appointment of another Committee should not be resorted to because if

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again the next Committee returns the similar findings then we would be again facing another petition from the Head Constables of Delhi Police and thus there would no end to the litigation.

18. As regards the judgment cited by the learned counsel for the applicant is concerned, in the case of P. Savita (Supra) there was a dispute with regard to Senior Draughtsman working in the Defence Production and discharging same functions but they were classified into two groups and higher salary was recommended for one group on the basis of seniority-cum-fitness which was held to be violative of Articles 14 and 16 of the Constitution of India whereas in the present case the Head Constables are comparing themselves with the Head Constables of the neighbouring states who have their own funds to pay the salary to their employees and those states have to look after their own problems with regard to their employees so the employees of the NCT of Delhi cannot compare themselves with the employees of the neighbouring state.

19. Then the other judgments which have been relied upon by the applicants also states about equal pay for equal work as it is against doctrine of Article 14 and 16 of the Constitution of India. At the same time it is to be seen that whether there is any reasonable classifications or not. The impugned order passed by the Government of India is based upon the directions given by this Tribunal on the basis of which the Expert Committee was constituted which also included Special Commissioner of Police, Delhi Police as well as

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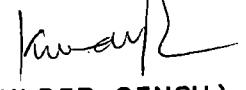
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the Additional Secretary (Home), NCT of Delhi and they had even compared the pay scales of Head Constables with the neighbouring States and various other factors so we find that this court should not substitute its own findings over and above the conclusion reached at by the Expert Committee.

20. As far the direction for appointing another Committee is concerned, we find that this will be a futile exercise because if another committee is appointed there can be no end to the issue as decided by the Tribunal in OA 3282/2001 and hence we find that the OA has no merits and the same is liable to be dismissed.


(S.A.T. RIZVI)

MEMBER (A)


(KULDIP SINGH)
MEMBER (JUDL)

Rakesh