(23)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

1) O.A. NO.618/2002
with
2) O.A. NO.2824/2001

This the 23rd day of July, 2003

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1) O.A. NO.618/2002

1. Bhavani Singh Meena S/O Phool Chand Meena,
House No.94, Hauzrani, Malviyanagar,
New Delhi-110017.

2. Smt. Nalini C. Jadav W/O Chandrakant C. Jadav,
Sector IV, Q. No.893, R.K.Puram,
New Delhi-110022.

3. Shyam Singh S/O Ram Prasad,
H.No.213-G, Gali No.12,
Sitapuri Part-II,
New Delhi-110045.

4. Hari Ram S/O Kauleshwar,
H.No.238/A, Block-G, Gali No.12,
Sitapuri Part-II,
New Delhi-110045.

5. Claver Toppo S/O Nicolas Toppo,
Qr. No.120 C, Sector-4,
Pushp Vihar, New Delhi-110017.

6. Mahipal Singh S/O Bhoora Singh,
H.No.241, Gali No.12,
Sitapuri Part-II,
New Delhi-110045. ... Applicants

(By Shri Deepak Verma, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Home Affairs,
North Block, New Delhi-110001.

2. Secretary,
Ministry of Personnel, P.G.
& Pensions, North Block,
New Delhi-110001.

3. Secretary,
Dept. of Expenditure,
Ministry of Finance,
North Block, New Delhi-110001.

4. Registrar General India &
Census Commissioner,
2-A Mansingh Road,
New Delhi. ... Respondents

(By Shri A.K.Bhardwaj, Advocate)

(29)

2) O.A. NO.2824/2001

1. All India Census Employees' Association
through its President
Shri O.P.Sharma,
Jan Ganana Bhawan,
Arera Hill, Jail Road,
Bhopal-462004 (MP).

2. O.P.Sharma S/O N.P.Sharma,
R/O 1440 Ram Mandir Road,
Tila Jamalpur,
Bhopal-462001 (MP).

3. J.R.Peteriya S/O Raghunandan Peteriya,
R/O H.No.2007, Rahemanpole,
Panchpatti, Kalupur,
Ahmedabad-380001 (Gujarat).

4. M.M.Samal S/O J.M.Samal,
R/O Malhasahi, Mangala Bag,
Cuttack (Orissa).

5. S.P.Sharma S/O G.S.Sharma,
R/O 1/15 Jharneswar Complex,
Jawahar Chowk,
Bhopal (MP). ... Applicants

(By Shri Deepak Verma, Advocate with Applicants 2 & 4 in person)

-versus-

1. Union of India through
Secretary, Ministry of Home Affairs,
North Block, New Delhi-110001.

2. Registrar General India &
Census Commissioner,
2-A Mansingh Road,
New Delhi. ... Respondents

3. Secretary,
Ministry of Personnel, P.G.
& Pensions, North Block,
New Delhi-110001.

4. Secretary,
Dept. of Expenditure,
Ministry of Finance,
North Block, New Delhi-110011. ... Respondents

(By Shri A.K.Bhardwaj, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

At the outset, Shri Deepak Verma, the learned counsel of applicants in OA No.618/2002 and OA

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No.2824/2001 stated that both cases are connected and that he would take up OA No.618/2002 first and then make some submissions on OA No.2824/2001. Shri O.P.Sharma and Shri M.M.Samal, applicant Nos.2 and 4 in OA No.2824/2001 were also present at the time of arguments. The learned counsel of applicants and Shri A.K.Bhardwaj, learned counsel of respondents made their submissions in both the OAs.

O.A. No.618/2002

2. Applicants in OA No.618/2002 are Investigators (Social Studies) in the office of Registrar General, India and Census Commissioner. They have impugned order dated 29th September, 2000 whereby they have been denied the pay scale of Rs.6500-10500 (Annexure A-1) which has been accorded to their counter-parts, i.e., Investigators (Statistical). By the impugned order while implementing the Fifth Central Pay Commission (CPC) report, out of 313 posts of Investigators in Statistical cadre (pre-revised scale of Rs.1640-2900) 142 posts have been re-designated as Statistical Investigator Grade-I and provided pay scale of Rs.6500-10500, the remaining posts have been re-designated as Statistical Investigator Grade-II and placed in the lower pay scale of Rs.5500-9000. Similarly, 12 posts of Investigator (SS) who were in the same pre-revised scale of Rs.1640-2900 as that of Investigator (Statistical), have been re-designated as Investigator (SS) Grade-I but placed in the lower scale of Rs.5500-9000.

3. According to applicants, the essential entry qualification as Investigator (SS) Grade-I is (i) post graduate degree and (ii) two years' experience. The essential entry qualification for Statistical Investigator Grade-I is also post graduate degree without prescription of any experience. It is alleged that even Statistical Investigators Grade-I who are matriculates are placed in the revised scale of Rs.6500-10500 (Annexures A-4/A-5) Applicants are aggrieved that though the essential entry qualification for them is higher than that of Statistical Investigators Grade-I, they have been placed in the lower revised scale of Rs.5500-9000 w.e.f. 1st January,1996 as compared to Rs.6500-10500 accorded to Statistical Investigators Grade-I, though both were in the same pre-revised scale of Rs.1640-2900. It is further contended that the impugned order is contrary to recommendations of the Fifth CPC which had categorically recommended the pre-revised scale of Rs.2000-3500 for post graduates and recommended revised scale of Rs.6500-10500 w.e.f. 1st January, 1996.

4. The learned counsel of applicants made the following contentions :

(1) Investigators (SS) have enjoyed parity of pay scale with Investigators in the Statistical cadre since the Third CPC. From 1st January, 1996, 142 Statistical Investigators have been designated as Statistical Investigators Grade-I and placed in the revised pay scale of Rs.6500-10500. 169 Statistical Investigators have been designated as

Grade-II and along with Investigators (SS) placed in the scale of Rs.5500-9000 w.e.f. 1st January, 1996 vide impugned order dated 29th September, 2000 (Annexure A-1).

(2) Investigator (SS) and Investigator Statistical Grade-I have same educational qualifications, i.e., master's degree. As a matter of fact, Investigator (SS) was required to possess two years' experience in compilation, analysis and interpretation of statistical data.

(3) Both Investigator (SS) and Investigator Statistical Grade-I are supervisory Grade 'B' posts.

(4) Duties and responsibilities of Investigator (SS) and Investigator Statistical Grade-I are the same.

5. The learned counsel of applicants has placed reliance on the following :

(1) P.Savita & Ors. v. Union of India & Ors., 1985 (Supp) SCC 94;

(2) Smt. M.B.Sahoo & Ors. v. Secretary (Planning) Govt. of N.C.T. of Delhi & Ors., OA No.1610/2001 decided on 9th April, 2002 (CAT, Principal Bench);

(3) Anil Ratan Sarkar & Ors. v. State of West Bengal & Ors., JT 2001 (5) SC 99;

(4) Jaipal v. State of Haryana, (1988) 3 SCC 356;

(5) Shri Alvare Noronha Ferriera & Anr. v. Union of India & Ors., 1999 (1) SCSLJ 517;

(6) G.K.K.Pillai & Ors. v. Union of India & Anr., 2002 (2) Forces Law Journal 272 (CWP No.1212/1998 decided on 19th February, 2002 : Delhi High Court);

(7) **Bureau of Indian Standards Laboratory Employees Association v. Union of India & Anr.**, 102 (2003) Delhi Law Times 212 (CW No.3925/1991 and CM No.1072/2002 decided on 18th September, 2002 : Delhi High Court); and

(8) **Union Territory, Chandigarh v. Central Administrative Tribunal, Chandigarh**, 2001 (3) Administrative Total Judgments 325 (CWP No.18225-CAT of 1998 decided on 22nd January, 2001: Punjab & Haryana High Court).

6. The learned counsel of respondents has stoutly opposed the contentions raised by the learned counsel of applicants. First of all, he stated that it is an established law that Tribunals should not interfere with pay scales which is essentially a function of the Executive Government and the Government normally acts on the recommendations of an expert body like the Pay Commission. The learned counsel stated that there were only 12 posts in the cadre of Investigators (SS). While seven posts are vacant, the six applicants in OA No.618/2002 were Junior Investigators (SS) in the pre-revised scale of Rs.1400-2300 and were placed in the new post of Investigator (SS) Grade-I in the pre-revised scale of Rs.1640-2900 as per order dated 29th September, 2000. Through the present OA applicants have sought another upgradation to the higher pay scale of Rs.2000-3500 which is unjustified. He further stated that as per the recruitment rules for the earstwhile post of Investigator (SS), the essential qualification for direct recruitment was master's degree in Anthropology, Sociology or Mathematics with Statistics or Village Community Study with special reference to SC/ST plus two years experience. In the recruitment rules framed for the post of Investigator (SS) Grade-I (after

implementation of the Pay Commission's recommendations) and notified vide Gazette Notification dated 6th December, 2001, the recruitment qualification has been retained the same as for the Investigator (SS). The pay scale recommended by the Pay Commission for the post of Investigator (SS) Grade-I has already been allowed to applicants and, therefore, there is no justification in the demand of applicants for allowing them higher pay scale of Rs.2000-3500. It is further stated that the Pay Commission is an expert body constituted by the Government for the purpose of deciding the cadre structure and the pay scales of various categories of employees keeping various relativities and all aspects in view and to give its recommendations thereon. The Pay Commission is not bound by the proposals made by applicants contained in their memorandum presented to the Commission. Applicants are seeking parity of the pay scale with the pay scale of Rs.2000-3500 which has been recommended by the Pay Commission for the post of Statistical Investigator Grade-I. In this connection, it has been stated that the Pay Commission has recommended for restructuring of the post of Investigator in the Statistical cadre into two posts viz., Statistical Investigator Grade-I and Statistical Investigator Grade-II in the pay scale of Rs.2000-3500 and Rs.1640-2900 respectively. For the post of Statistical Investigator Grade-I, the Pay Commission recommended higher recruitment qualification, i.e., IInd class master's degree plus two years experience. Since as per the Government instructions IInd class master's degree was not to be prescribed, the recruitment rules for the

post of Statistical Investigator Grade-I were framed with the recruitment qualification as master's degree instead of IInd class master's degree. However, the recruitment rules for the post of Statistical Investigator Grade-I are being amended to prescribe the recruitment qualification as master's degree plus three years experience. As such, the recruitment qualification for the post of Investigator (SS) Grade-I would not be at par with the proposed recruitment qualification for the post of Statistical Investigator Grade-I. In view of this, the demand of applicants is stated to be unjustified. The learned counsel refuted the claim of applicants that they hold any supervisory position. They are only six in number and do not supervise the work of any other category of staff. The learned counsel stated that the recruitment rules for the new posts in the restructured Statistical cadre have already been circulated and statement indicating responsibilities and main job requirements of the posts, namely, Statistical Investigator Grades-I, II and III, Senior Compiler and Compiler has been circulated vide Annexure R-I dated 18th April, 2002. This is indicative of the dissimilarities in the qualifications, duties and responsibilities of Statistical Investigator Grade-I and Statistical Investigator Grade-II, and the qualifications and duties and responsibilities of the Investigators (SS) are entirely different.

7. The learned counsel further contended that prescription of pay scales and qualifications for posts is a complex matter which takes into consideration data

on structure, qualifications, duties and responsibilities, strength of staff, etc., which aspects are best left with the Executive. He relied on the following :

(1) **Union of India & Ors. v. Makhan Chandra Roy**, AIR 1997 SC 2391;

(2) **Union of India & Ors. v. Pradip Kumar Dey**, JT 2000 (Suppl.2) SC 449;

(3) **Union of India & Ors. v. P.V.Hariharan**, JT 1997 (3) SC 569; and

(4) **State of Haryana & Anr. v. Civil Secretariat Personal Staff Association**, JT 2002 (5) SC 189.

8. The import of the decisions in the cases of **Jaipal**, **Alvare Noronha Ferriera**, **G.K.K.Pillai**, **Bureau of Indian Standards**, and **Union Territory, Chandigarh** (supra) is that the doctrine of 'equal pay for equal work' would apply on the premise of identical or similar work even if the mode of recruitment to such posts is different. In the case of **P.Savita** (supra) it has been held that there should be no discrimination amongst persons holding identical posts and discharging identical duties. In the matter of **Smt. M.B.Sahoo** (supra) the post of Research Officer (Group 'B') being a supervisory post was accorded upgraded pay scale.

9. Admittedly, the cadre of Investigator (SS) is a small cadre having 12 sanctioned posts out of which seven are lying vacant. This cadre does not have any feeder cadre under it on which it performs any supervisory functions. Even the list of duties and responsibilities submitted on behalf of applicants does not indicate

supervisory nature of these posts. The argument put forth on behalf of applicants that Investigator (SS) Grade-I should have a higher pay scale than what it is at present as it is a supervisory post, is not substantiated and as such must be rejected.

10. Although it has been contended by applicants that they have master's degree qualification and perform same duties and responsibilities as Statistical Investigators Grade-I, respondents have submitted information at the time of arguments that the structure of the Social Studies (SS) cadre has changed after the Fifth CPC's recommendations. It is as follows :

"BEFORE VTH CPC	AFTER VTH CPC
Assistant Director of CO (Tech)	Assistant Director of CO (Tech)
Investigator (Social Studies) No. of posts : 12 Pay scale : Rs.1640-2900 (20% by promotion and 80% by direct recruitment)	Investigator (Social Studies) Gr.I No. of posts 12 Pay scale: Rs.1640-2900 By direct recruitment
Junior Investigator No. of posts:8 Pay scale Rs.1400-2300 By direct recruitment	(Post of Junior Investigator abolished and all incumbents placed in new grade of Investigator Social Studies Gr.I)"

It is clear that now Investigator (SS) Grade-I does not have any feeder cadre of Junior Investigator under it and as such, does not perform any supervisory functions. As regards qualifications, recruitment rules for the post of Statistical Investigator Grade-I are under revision with

a view to upgrade the recruitment qualifications from "master's degree plus two years experience" to that of "master's degree plus three years experience". Thus, the recruitment qualification for the post of Statistical Investigator Grade-I will be upgraded with reference to the recruitment qualification for the earstwhile post of Investigator and Investigator (SS) Grade-I. However, in the normal course it can be said that the differential in the qualifications is prospective. The learned counsel of applicants had also stated that even matriculate Statistical Investigators have been placed in Grade-I. The learned counsel of respondents had explained that only senior Statistical Investigators were placed in Grade-I and the higher pay scale ignoring the master's degree qualification.

11. An important aspect which has to be kept in view while adjudicating the present matter is that the cadre of Statistical Investigators is 26 times larger than the cadre of Investigator (SS). While the qualifications, duties and responsibilities of Statistical Investigators Grade-I will be qualitatively different than those of Investigator (SS) Grade-I and even if this aspect were to be ignored presently, the much broader base of the Statistical Investigators cadre is a good justification for creating a category out of that cadre with a higher remuneration. The cadre of Investigators (SS) with only six persons in position which has virtually been stated to be a dying cadre, cannot compete with the cadre of Statistical Investigators having a much larger base and requirements

of growth and prospects. Stagnation aspect of the small cadre of Investigator (SS) can be tackled by application of Assured Career Progression Scheme. We are also conscious of the fact that equation of posts or equation of pay has to be left to the Executive Government. Expert bodies like the Pay Commission have necessary data and infrastructure to go into such problems at depth vis-a-vis the Courts. We do not discover any extraneous consideration with the Government in the present matter which compelled the Government to restructure the cadre of Statistical Investigators allocating a higher pay scale to Statistical Investigators Grade-I and lower pay scales to Statistical Investigators Grade-II and Investigators (SS) Grade-I.

12. Having regard to the discussion made and reasons given above, OA No.618/2002 is dismissed being devoid of merit, however, without any costs.

O.A. No.2824/2001

13. While the learned counsel of respondents raised the preliminary objection that multiple reliefs have been sought in this OA, he also contended that as stated in respect of OA No.618/2002, equation of posts or equation of pay has to be left to the Executive Government which has restructured the cadre of Statistical Investigators on the basis of the nature of duties and responsibilities of different levels of posts without any arbitrariness or extraneous consideration.

14. We find that this application is not based upon a single cause of action and through this applicants have sought a number of reliefs which are not consequential to one another. This is in violation of the provisions of Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987. This OA is consequently dismissed as not maintainable. No costs.

(V. K. Majotra)
Member (A)

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

/as/

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg.
New Delhi 110001