

THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 979 OF 2001.

New Delhi, this the 25th day of September 2001

HON'BLE MR. ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M. P. SINGH, MEMBER (A)

1. Comptroller and Auditor General's Office Staff Association
through its General Secretary, Shri Radhaey Shyam, office at
Office of the Comptroller and Auditor General of India,
New Delhi 110002.

2. Shri. Surender Singh Dahiya, Son of Shri. Ram Sarup,
aged about 45 years, posted as Clerk in
Comptroller and Auditor General of India office,
Resident of VPO Bindhrolly, District Sonapat, Haryana.

3. Shri. Shiv Charan Singh, Son of Shri. Khem Chand,
aged about 52 years, posted as S G Record Keeper,
in Comptroller and Auditor General of India office,
Resident of 114, Lodhi Road Complex, New Delhi 110 003.

4. Shri. Om Prakash, Son of Shri. Ishwar Chand Dudeja,
aged about 33 years, posted as Clerk, in
Comptroller and Auditor General of India office,
Resident of 81, Mohalla Bhim Nagar, Gurgaon, Haryana.

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5. Shri. Satish Chand, Son of Shri. Rattan Lal,
aged about 38 years, posted as Record Keeper,
in Comptroller and Auditor General of India office,
Resident of ...364, Line Par, (House No. 910 A,
Gali No. 7, Ward No. 2) Bahadurgarh, Haryana.
6. Shri. Sarjeet Singh Bansal, Son of Shri. Gule Ram,
aged about 37 years, posted as Clerk, in
Comptroller and Auditor General of India office,
Resident of Village Garhi Sablu, P. O. Loni,
District Ghaziabad, Uttar Pradesh.
7. Shri. Subhash Chopra, Son of Late Shri S. L. Chopra,
aged about 42 years, posted as Personal Secretary,
in Comptroller and Auditor General of India office,
Resident of 1 / 69, Ramesh Nagar, New Delhi.
8. Shri. G. S. Rawat, Son of Late Shri. Kunwar Singh,
aged about 35 years, posted as Clerk, in
Comptroller and Auditor General of India office,
Resident of H-373, Srinivas Puri, New Delhi-110 065.
9. Shri. Tara Chand, Son of Shri. Prithavi Singh,
aged about 42 years, posted as Personal Assistant,
in Comptroller and Auditor General of India office,
Resident of Village Bass Hariya, P. O. Bass Lambi,
District Gurgaon, Haryana.

in Comptroller and Auditor General of India office

Resident

10. Shri. Iqbal Singh, Son of Shri. Kartar Singh,
aged about 40 years, posted as Group 'D' employee in
Comptroller and Auditor General of India office,
Resident of 242, A/13, Village Ghondali,
P. O. Krishna Nagar, Delhi 110 051.
11. Shri. Daya Nand, Son of Shri. Har Chand,
aged about 36 years, posted as Clerk, in
Comptroller and Auditor General of India office,
Resident of V P O Alipur, Delhi 110 036.
12. Shri. Jagbir Singh, Son of Shri. Dav Shay,
aged about 33 years, posted as Group 'D' employee in
Comptroller and Auditor General of India office,
Resident of 81, Bhim Nagar, Gurgaon, Haryana.
13. Shri. Mukesh Kumar, Son of Late Shri. Radhey Shyam Sharma,
aged about 34 years, posted as Group 'D' employee in
Comptroller and Auditor General of India office,
Resident of V P O Baghpat, Uttar Pradesh.
14. Shri. Ram Pal, Son of Shri. Sohamvir,
aged about 31 years, posted as Group 'D' employee
in Comptroller and Auditor General of India office,
Resident of 16/40, Kalyan Puri, Delhi

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15. Shri. Suresh Lal, Son of Shri. Durga Ram,
aged about 37 years, posted as Record Keeper,
in Comptroller and Auditor General of India office,
Resident of 29/1, Pushap Vihar, Sector 1, New Delhi 10 017.
16. Shri. Kesar Singh, Son of Shri Jagdish Singh,
aged about 32 years, posted as Group 'D' employee in
Comptroller and Auditor General of India office,
Resident of Village Januphat, P. O. Dadri, District
Gautam Budh Nagar, Uttar Pradesh.
17. Shri. Babu Lal, Son of Shri. Puran Chand,
aged about 41 years, posted as Group 'D' employee,
in Comptroller and Auditor General of India office,
Resident of RZ-F. 54, New Delhi 110 043.
18. Shri. Hira Lal, Son of Shri. Chunni Lal,
aged about 37 years, posted as Group 'D' employee,
in Comptroller and Auditor General of India office,
Resident of 97, Ward 2, Mehrauli, New Delhi.
19. Shri. Anand Ram, Son of Shri. Kishan Lal,
aged about 42 years, posted as Record Keeper,
in Comptroller and Auditor General of India office,
Resident of R-61, Vinod Nagar, Delhi 110 091.
- [Signature]*


20. Shri Rakesh, Son of Late Shri Mohan Lal,
aged about 31 years, posted as Clerk in
Comptroller and Auditor General of India office,
Resident of 1/7187, Shahdra, Shivaji Park, Delhi 110 032.
21. Shri Joginder Singh, Son of Late Shri Shohru Ram,
aged about 42 years, posted as Personal Assistant,
in Comptroller and Auditor General of India office,
Resident of T. 783 / A. 3, Baljeet Nagar, Prem Nagar Road,
(West Patel Nagar) New Delhi.
22. Shri S. Subramanyam, Son of Shri Sami,
aged about 36 years, posted as Senior Clerk in
Comptroller and Auditor General of India office,
Resident of 424, Block No. 22, Trilok Puri, Delhi 110 091.
23. Shri Amrit Pal Singh, Son of Shri Baldev Singh,
aged about 32 years, posted as Group 'D' employee,
in Comptroller and Auditor General of India office,
Resident of 2/4, East Azad Nagar, Delhi 110 051.
24. Shri Manwar Singh, Son of Shri G. S. Rawat,
aged about 36 years, posted as Clerk in
Comptroller and Auditor General of India office,
Resident of 711, Ali Gang, Lodhi Road, New Delhi 110 003.

23. Shri Amrit Pal Singh, Son of Shri Baldev Singh,
aged about 32 years, posted as Group 'D' employee,
in Comptroller and Auditor General of India office,
Resident of 2/4, East Azad Nagar, Delhi 110 051.

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25. Shri K. B. Thapa, Son of Late Shri D. N. Thapa,
aged about 43 years, posted as Senior Peon,
in Comptroller and Auditor General of India office,
Resident of R. 195, Aram Bagh, New Delhi.
26. Ms. Parvinder Kaur Takkar, *wife* of Shri S. Bhupinder
Singh Takkar, aged about 35 years, posted as Personal Assistant in
Comptroller and Auditor General of India office,
Resident of 2220, Qutter Lines, G. T. B. Nagar, New Delhi.
27. Shri Jai Prakash, Son of Shri Sukhbir Ram,
aged about 27 years, posted as Peon, in
Comptroller and Auditor General of India office,
Resident of 570/1, Mohalla Jatwara, Sonipat, Haryana.
28. Shri Ashwani Kumar, Son of Shri V. N. Sharma,
aged about 32 years, posted as D.E.O. in
Comptroller and Auditor General of India office,
Resident of 11, Comptroller and Auditor General's Office Complex,
New Delhi.
29. Shri Gian Singh, Son of Shri Prem Singh,
aged about 54 years, posted as Peon in
Comptroller and Auditor General of India office,
Resident of 1487, Lodhi Road Complex, New Delhi 110 003.
30. Shri Jai Prakash, Son of Shri Sukhbir Ram,
aged about 27 years, posted as Peon, in
Comptroller and Auditor General of India office,
Resident of 570/1, Mohalla Jatwara, Sonipat, Haryana.

30. Shri M. S. Qureshi, Son of Late Shri. M. J. Qureshi,
aged about 41 years, posted as Record Keeper,
in Comptroller and Auditor General of India office,
Resident of 19 - A / 218, Punchkunja Road, New Delhi.
31. Shri Sushil Kerketta, Son of Shri. Cladins Kerketta,
aged about 35 years, posted as Clerk,
in Comptroller and Auditor General of India office,
Resident of L.P. 35 A / D.D.A. Flats, Pritam Pura, Delhi.
32. Shri M. C. Joshi, Son of Lt. Shri. D. D. Joshi,
aged about 31 years, posted as D.E.O. in
Comptroller and Auditor General of India office,
Resident of J-1, House No. 139 / Baba Colony, Burari, Delhi.
33. Shri C. S. Singh, Son of Lt. Shri. Mohan Singh,
aged about 33 years, posted as Auditor,
in Comptroller and Auditor General of India office,
Resident of G-185 A / Lajpat Nagar, Sahibabad, Uttar Pradesh.
34. Shri Subash Chander, Son of Shri Kalyan Singh,
aged about 32 years, posted as Peon, in
Comptroller and Auditor General of India office,
Resident of 16 / 318, Kalyan Puri, Delhi 110 091.

35. Mrs. Sunita Arora, Wife of Shri. Chander Shekher,
aged about 40 years, posted as Personal Assistant,
in Comptroller and Auditor General of India office,
Resident of 459, Parwana Colony, Delhi.
36. Shri. Om Parkash, Son of Shri. Mahabir,
Aged about 33 years, posted as D. E. O.,
in Comptroller and Auditor General of India office,
Resident of P-73/Pandav Nagar, Delhi.
37. Shri. Mahender Singh, Son of Shri. Undia Singh,
aged about 45 years, posted as Clerk in
Comptroller and Auditor General of India office,
Resident of 14/168, Punchkuia Road, New Delhi.
38. Shri. Kirti Ballabh, Son of Lt. Shri. Bishan Dutt,
aged about 41 years, posted as D. E. O., in
Comptroller and Auditor General of India office,
Resident of 35/1, Sector-I, Pushp Vihar, New Delhi.
39. Shri. Jagdish Chand Tripathi, Son of Lt. Shri. R. D. Tripathi,
aged about 34 years, posted as Clerk, in
Comptroller and Auditor General of India office,
Resident of BC - 158 - C, (East), Shalimar Bagh, Delhi.



40. Shri Ravinder Kumar, Son of Shri Daya Chand,
aged about 37 years, posted as D. E. O. in
Comptroller and Auditor General of India office,
Resident of 48/25/221, Hastal Village, Uttam Nagar, Delhi.
41. Shri Iqbal Singh, Son of Lt. Shri P. Singh,
aged about 59 years, posted as Clerk,
in Comptroller and Auditor General of India office,
Resident of Z-90, Timar Pur, New Delhi 110 054.
42. Shri Jai Kishan Verma, Son of Shri Chaman Lal Verma,
aged about 52 years, posted as Personal Secretary,
in Comptroller and Auditor General of India office,
Resident of 1/16021, Naveen Shahadra, Delhi.
43. Shri Bhupender Mathur, Son of Lt. Shri Shayam Sunder Mathur,
aged about 28 years, posted as Peon, in
Comptroller and Auditor General of India office,
Resident of Sri Niwash Puri, New Delhi 110 065.
44. Shri Ramanush Pandit, Son of Shri Baleshwar Pandit,
aged about 27 years, posted as Peon,
in Comptroller and Auditor General of India office,
Resident of D-325, Defence Colony, New Delhi.
45. Shri Azad Singh, Son of Shri Mange Ram,
aged about 46 years, posted as Auditor, in
Comptroller and Auditor General of India office,
Resident of V. P. O. Punjab Khare, Delhi 110 081.

46. Shri K. Raju, Son of Lt. Shri. Kunda Swamy,
aged about 29 years, posted as Peon,
in Comptroller and Auditor General of India office,
Resident of C-155, Sector-I, Kerma Vishali,
Ghaziabad, Uttar Pradesh.
47. Shri Surjit Singh, Son of Lt. Shri. Birbal Singh,
Aged about 32 years, posted as D.E.O.,
in Comptroller and Auditor General of India office,
Resident of L-522, Sewa Nagar, Delhi 110 003.
48. Ms. Achla Alagh, Wife of Shri G.P. Alagh,
Aged about 40 years, posted as Personal Secretary,
in Comptroller and Auditor General of India office,
Resident of D-1, Shaukar Garden, Nazafgarh Road,
New Delhi 110 018.
49. Shri Raghubir Singh, Son of Lt. Shri. Nathu Ram,
Aged about 54 years, posted as Daftry,
in Comptroller and Auditor General of India office,
Resident of 741/31, Ekta Colony, Rohtak, Haryana.
50. Shri Chander Singh, Son of Shri. Kanhiya Ram,
Aged about 28 years, posted as D.E.O.,
in Comptroller and Auditor General of India office,
Resident of 557, Aliganj, Lodhi Road, New Delhi 110 003.

51. Shri Vijay Kumar, Son of Lt. Shri. U. C. Sharma,
Aged about 34 years, posted as Auditor,
in Comptroller and Auditor General of India office,
Resident of 12/220, Bombay Wali Gali, Bahadur Garh, Haryana.

52. Shri Ashak Kumar Chugh, Son of Shri. C. R. Chugh,
Aged about 45 years, posted as Auditor,
in Comptroller and Auditor General of India office,
Resident of V-75, Sector-12, Noida, Uttar Pradesh.

53. Shri Shanker Dass, Son of Shri Kishan Dass,
Aged about 24 years, posted as Peon,
in Comptroller and Auditor General of India office,
Resident of E-69, Moti Bagh-I, New Delhi 110 021

.... Applicants

(By Advocate : Shri S. K. Dwivedi)

Versus

1. Comptroller and Auditor General of India,
10, Bahadur Shah Zafar Marg,
New Delhi 110002.
2. Secretary,
- 53 Ministry of Finance,
Department of Expenditure,

North Block,

New Delhi.



Resident of 12/220, Bombay Wali Gali, Bahadur Garh,

3. Secretary,
Ministry of Personnel, Public
Grievances and Pensions,
North Block, New Delhi
(By Advocate: Shri Madhav Panikar)

... Respondents

ORDER (ORAL)

By Shri M.P. Singh:

Applicant No.1, in this OA, is an Association of Office Staff working in the Office of the Comptroller and Auditor General of India (hereinafter called as 'CAG'), New Delhi and consists of Clerks, Group 'D' employees, Staff Car Drivers, Stenographers, Personal Secretaries etc. and Applicant Nos.2 to 53 are the members of Applicant No.1, i.e., Association.

2. By filing this OA, the applicants are claiming for direction to consider and grant Headquarter Special Allowance to them. They have also sought direction to quash the order dated 3.12.1998 regarding the tenure of deputationist and further direction to the respondents to frame a policy in future with regard to those deputationists who have completed more than 5 years for their repatriation to their parent cadre/post within a reasonable time.

3. The contention of the applicants is that staff working in the higher scales in the office of CAG are given the Deputationists allowance as well as Headquarters Special allowance whereas the applicants ~~are also~~ performing more or less the same type of duties are denied the aforesaid benefits which amounts to discrimination. The applicants made a number of

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representations to the respondent No.1, but the same have not yet been replied till date. Thus, aggrieved by this they have filed this OA claiming the aforesaid reliefs.

4. The respondents in their reply have stated that the statement that the Senior Administrative Officers (in short 'SAO')/ Administrative Officers (in short 'AO'), Assistant Administrative Officers (in short 'AAO')/ Section Officers (in short 'SO')/ Sr.Auditors (in short 'SA') /Auditors working in CAG's office were granted special pay in lieu of higher scales of pay consequent to the recommendations of IInd Central Pay Commission is not factually correct. In fact, special pay to AOs/SOs (now SAOs/AOs/AAOs/SOs) posted to CAG's office, whether holding cadre or ex-cadre posts was granted from Ist CPC to IInd CPC in lieu of higher scales of pay. Even though the IIIrd CPC did not recommend higher scale of pay for the AOs/SOs in lieu of the existing pay scales/pay scale plus special pay or made a general recommendation about the grant of special pay to them and left the matter to be decided by the Government. Accordingly, Government granted special pay to AOs, SOs, Auditors/Upper Division Clerks and Selection Grade Clerks. From IVth CPC the special pay is being granted for arduous nature of duties and is not to be treated as part of pay for the purpose of retirement benefits. Similarly, special pay to Auditors (now SAs/Auditors) holding ex-cadre posts in CAG's office was granted in May 1961 in lieu of two advance increments. On the recommendations of IIIrd CPC, the Auditors holding cadre posts in CAG's office were also brought within the purview of special pay and since 1975 Auditors, holding

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cadre as well as ex-cadre posts are being granted special pay for performing arduous nature of duties. The nomenclature of the special pay had been changed to Headquarters special allowance consequent upon the acceptance of recommendations of Vth CPC. According to the respondents, the nature of duties varies from one post to another as per vertical & horizontal hierarchy in the organisation and responsibilities attached to each post. It is not at all correct to state that in CAG's office Clerks/Group 'D' employees/Stenographers/Canteen staff perform the same nature of duties as attached to SAOs/AOs/AAOs/SOs/SAs/ Auditors and the conditions for grant of headquarter special pay applicable to the later officials are equally applicable to the former. The Clerks/Group 'D' employees/Stenographers/Canteen staff perform duties of general nature, which are similar to those officials of similar status working in field offices of IA&AD. Moreover, the posts of Clerks/Group 'D' employees/Stenographers/Canteen staff are common to all Central Ministries/Departments also where no headquarter special pay (allowance) is being paid to such similarly placed employees. Representations made by the CAG's Staff Association in this connection were considered but not found justified in view of the aforesaid position.

5. Heard both the learned counsel for the rival contesting parties and perused the material placed before us.

6. During the course of the argument, learned counsel for the applicants drew our attention to catena of judgement of the Supreme Court and submitted that the

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certain categories of staff like SAO, AO, AAO, SO, SA, and Auditor are being paid two types of allowances one is Deputation allowance and the other is Headquarter Special allowance. He also stated that there should be some time limit on the tenure of the deputation as prescribed in the OM dated 5.1.1994 issued by the Ministry of Personal, P.G. & Training (Department of Personnel and Training) but the same is not being followed by the respondents. He submitted that this OM of 5.1.1994 is equally applicable to the office of respondent No.1. According to para 8.1 of the aforesaid OM, the period of deputation/foreign service shall be subject to a maximum of three years in all cases except for those posts where a longer period of tenure is prescribed in the Recruitment Rules. This period of three years may be further extended by another two years in public interest when it is absolutely necessary and with the specific approval of the Minister of the borrowing Ministry. But where such extension is granted, it would be on the specific understanding that the officer would not be entitled to draw deputation allowance in the fifth year. The learned counsel for the applicant also submitted that even the Respondent No.1 is convinced that the applicants are entitled for the grant of Headquarter Special allowance and he has already taken a decision to this effect on the¹ file. This fact can be verified from the original record of the respondents.

7. On the other hand, learned counsel for the respondents stated that this special allowance is being paid to the aforesaid cadre right from the time of Ist CPC in lieu of higher scale of pay. The applicants are



not eligible for the payment of Headquarter Special allowance as they are not performing the specialised nature of work. In fact, they are like any other Group 'C' & 'D' staff working in any Govt. Deptt. and are performing only the routine and general type of work. As regards the payment of Deputation allowance and tenure beyond a fixed term is concerned, Respondent No.1 has taken the concurrence of the Ministry of Finance that the provisions of OM of 5.1.1994 are not applicable in their case. Moreover, the officers and staff who are taken on deputation to work at the Headquarter belong to their own Department, i.e., Indian Audit and Accounts Department. The officers/staff who are working in the field offices and are willing to come on deputation to the office of Respondent No.1 are posted to the Headquarter. Therefore, the provisions contained in the OA of 5.1.1994 for obtaining the consent of the lending authority is not applicable in this case as both the lending and borrowing authorities happens to be same authority, i.e., Respondent No.1. The learned counsel for the respondents also submitted that it is very difficult to get persons on deputation from field organisation unless they are given some incentive like special pay etc. He also drew our attention to the circular dated 18.5.2001 by which the headquarter had invited applications from the persons working in the field and are willing to come to the office of Respondent No.1. In response to this circular, only a few persons opted to come on deputation to the Headquarter. It is precisely for these reasons that some incentives are required to be provided to the persons who come on deputation to work in the office of Respondent No.1 in relaxation to the provisions of OM

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dated 5.1.1994. Moreover, Respondent No.1 being the head of the organisation is in the best position to decide the conditions of service of the employees working in that organisation to discharge the constitutional functions as envisaged in the Constitution.


8. From the records placed before us, we are satisfied that the duties performed by the staff, who are granted Headquarter Special allowance and deputation allowance, are specialised and arduous in nature. The matters relating to the grant of higher pay/special allowance or any other allowance are to be looked into by the expert body like Pay Commission and a decision on the recommendation^{of Pay Commission 2} is required to be taken by the Executive. The Court cannot look into the matter and decide the quantum and types of allowances to be granted to the employees working in Govt. Deptt./ constitutional bodies. The Hon'ble Supreme Court in the case of UOI and another v. P.V. Hariharan and another, (1997) 3 SCC 568, has observed that "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 realize 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 a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay

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for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board."

9. In view of the above position, and also in view of the judgement of the Hon'ble Supreme Court in the aforesaid case (supra), we do not find any ground to interfere with the impugned order passed by the Respondent No.1. The OA, therefore, fails and is, accordingly, dismissed. No costs.


(M.P. SINGH)
MEMBER(A)


(ASHOK AGARWAL)
CHAIRMAN

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