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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1139/99

New Delhi, this the 2nd day of January, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. A. Singh, Member (A)

1. Raj Kumar s/o Sh. Kanahiya Lal,
r/o D-26, Thompson Road,
New Delhi - 2.
 2. Bal Raj s/o Sh. Anant Ram,
r/o Gali No.6, Vill. Jagatpur,
Delhi - 9.
 3. Lilu Ram s/o Sh. Sita Ram,
r/o G-221, Sriniwaspuri,
New Delhi - 65.
 4. Devi Dutt s/o Sh. Ballav Panday,
r/o A/91, Chandar Vihar, Manduali,
Faralpur, Delhi - 92.
 5. Suraj Singh s/o Sh. Dahi Ram,
R/o F/270, Lado Sarai,
P.O. Mehrauli, N.Delhi - 30.
 6. Man Singh s/o Sh. Mikkan Lal Ji,
r/o D-43, Rouse Avenue Road,
New Delhi.
 7. Shambhu Nathi s/o Sh. Ram Chander,
r/o G-164, Sriniwas Puri,
New Delhi - 1.
 8. Anil Kumar Goyia s/o Sh. M.P. Goyia,
r/o D-571, Mandir Marg, New Delhi - 1.
 9. V. Nagaraj Rao s/o Late Sh. S.R.V. Rao,
r/o C-200, Nanak Pura, New Delhi - 21.
 10. Shiv Parshad s/o Sh. late Sh. Gaja Nanad,
r/o F-4, PRESS Road, New Delhi - 2.
 11. Ajit Singh s/o Sh. Ranbir Singh,
r/o G-102, S.N.Puri, New Delhi.
 12. Pramod Kumar s/o Late Sh. Joga Ram,
r/o 17, F. Jahangir Road,
New Delhi.
 13. Jagdish Chand s/o Sh. Rati Ram,
r/o E-22, Rouse Avenue Road,
New Delhi.
 14. Faqir Chand s/o Sh. Hairgian Singh,
r/o D-G/1064, Sarojni Nagar,
New Delhi.
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15. Virender Kumar Sharma s/o Sh. Phool Kumar Sharma,
r/o A/703, Sarojni Nagar, New Delhi.
16. Kanhiya Lal Ghosh
Mirdad Road, New Delhi.
17. Bhawani Shankar s/o Sh. Ram Swarup,
r/o E-19, Rouse Avenue Road,
New Delhi.
18. Raj Pal s/o Late Sh. Chander,
r/o A-113, Sarojini Nagar,
New Delhi.
19. Jaspal Singh s/o late Sh. Roar Singh,
r/o G-695, Sriniwas Puri,
New Delhi-65.
20. Ramesh Chander s/o Sh. Brij Lal,
r/o D-60, Press Lane,
New Delhi - 2.
21. Lakhinder Singh s/o Sh. Harpal Singh,
r/o 7-F, Press Road, New Delhi.
22. Lalji Ram s/o Sh. Panchu Ram,
r/o 13/4, Sarojini Road,
New Delhi- 5.
23. Chander Mohan s/o Sh. Late Jagain Nath
r/o E-9, Rouse Avenue Road,
New Delhi.
24. Lorence Horo s/o Late Sh. Polikarp Horo,
r/o C-294, Minto Road Complex,
New Delhi.
25. Bimal Sha s/o Sh. Devki Sha,
r/o J-840-Mandir Marg, New Delhi.
26. Inder Pal singh s/o Sh. Prit Pal Singh,
R/o G-181, Sri Niwas Puri,
New Delhi - 65. ...Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through
The Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. The Director,
Directorate of Printing,
B Wing, Nirman Bhawan,
New Delhi.

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3. The Manager,
Photo Litho Unit,
Govt. of India Press,
Minto Road,
New Delhi.

... Respondents

(By Advocate: Sh. M. K. Bhardwaj proxy for Sh. A. K. Bhardwaj)

O R D E R

Justice V. S. Aggarwal. Chairman -

Applicants seek a higher pay scale of Rs. 5000-8000 contending that it has been granted to other similarly situated persons.

2. The relevant facts are that applicants are working as Machineman Grade-I in the Directorate of Printing, Nirman Bhawan, New Delhi. Before the Fifth Central Pay Commission, the pay scale of Machineman was Rs. 1400-2300. After the Fifth Central Pay Commission's Report, the Government of India revised the pay scale of the Machineman of the Printing staff to Rs. 5000-8000 in all other Ministries. So far as the applicants are concerned, their pay scales have been revised only to Rs. 4500-7000. Applicants contend that they are performing same duties and functions as are being performed by the Machineman of the other presses in the Govt. of India. There are number of Presses in the Govt. of India in different Ministries like Ministry of Telecom, Ministry of Railways, Ministry of Agriculture, Ministry of Finance, etc. The pay scales of similarly situated persons have been revised, as referred to above, which is higher to

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that of the applicants. According to the applicants they have same recruitment rules, duties, functions and responsibilities. In this backdrop of facts, the applicants contend that the order passed by the respondents rejecting their claim should be quashed.

3. Earlier the present application had been heard and on 3.4.2002, this Tribunal had disposed of the same holding:

"7. By the Tribunal's order dated 18.3.1999 respondents were directed to pass a reasoned order on applicant's representation dated 5.1.1999. The impugned order dated 13.4.1999 does not contain any comparative analysis on the contents of the Recruitment Rules, educational and experience qualifications, duties and responsibilities prescribed, nature and outturn of work, performance levels, perquisites, if any, applicable in the case of applicants vis-a-vis those with whom they are claiming parity in pay scales, to establish whether the claim is enforceable or not. Such an exercise can be undertaken best by respondents who have the necessary material and data available with them. In the absence of any such exercise it is difficult for this Bench to arrive at any conclusion, one way or the other.

8. In the result this OA is disposed of by directing respondents that further to their impugned order dated 13.4.1999 they shall conduct the exercise outlined in para 7 above by means of a detailed, speaking and reasoned order in accordance with rules and instructions under intimation to applicants within 4 months from the date of receipt of a copy of this order. While doing so respondents shall not lose sight of the additional materials filed by applicants and contained in this OA. If any grievance still survives it will be open to applicants to agitate the same by seeking revival of this OA through an MA by

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impugning the orders passed pursuant to these directions."

4. In terms of the directions of this Tribunal, the respondents have rejected the claim of the applicants with the result the present original application on the application of the applicants had been revived with consequential amendments.

5. In the reply filed, the respondents have contested the application. It has been pleaded that in 1987, Govt. of India had set up an Expert Committee consisting of officials from Ministry of Urban Development, Railway Press and Survey of India, Dehradun, known as Inter-Departmental Committee on Printing Staff. It was to consider the re-classification and remuneration of various jobs in the Presses under different Ministries. The Committee had felt that there should be three nomenclatures of posts which may be called as Offset Machine Man, Offset Machine Assistant and Offset Machine Attendant. It suggested that they should be categorised as Master Craftsman (Highly Skilled/Skilled). There was no post of Machine Man Grade-I in the Govt. of India Presses under the administrative control of Directorate of Printing. The responsibilities and duties of the Machine Man of the Budget Press/Security Printing have not been compared to that of Offset Machine Man. It is denied that recruitment rules, the duties and

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responsibilities of the other posts are similar to the applicants.

6. We have heard the parties counsel.

7. There is little controversy that equal pay for equal work is not a fundamental right but a constitutional goal. When different persons are similarly situated, normally they have to be treated in the same manner. In the case of State of Uttar Pradesh & Ors. vs. J.P. Chaurasia and Ors., AIR 1989 SC 19, the Supreme Court provided that normally courts should not interfere in the opinion of the Pay Commission or the action in this regard of the Executives. This should be left to be determined by the Expert Body. The Supreme Court held:

"28.....It is now well established that the classification can be based on some qualities or characteristic of persons grouped together and not in others who are left out. Those qualities or characteristics must, of course, have a reasonable relation to the object sought to be achieved. In service matters, merit or experience could be the proper basis for classification to promote efficiency in administration. He or she learns also by experience as much as by other means. It cannot be denied that the quality of work performed by persons of longer experience is superior than the work of newcomers. Even in Randhir Singh's case (AIR 1982 SC 879), this principle has been recognised. O. Chinnappa Reddy, J. observed that the classification of officers into two grades with different scales of pay based either on academic qualification or experience on length of service is sustainable. Apart from that, higher pay scale to avoid stagnation or resultant

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frustration for lack of promotional avenues is very common in career service. There is selection grade for District Judges. There is senior time scale in Indian Administrative Service. There is super time scale in other like services. The entitlement to these higher pay scales depends upon seniority-cum-merit or merit-cum-seniority. The differentiation so made in the same cadre will not amount to discrimination. The classification based on experience is a reasonable classification. It has a rational nexus with the object thereof. To hold otherwise, it would be detrimental to the interest of the service itself."

In the case of Union of India & Ors. v. P.V. Hariharan & Ors., JT 1997(3) SC 569, the Supreme Court once again held that ordinarily in such like matters, the Tribunal should not interfere and following guide-lines were provided in paragraph 5, which reads:

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. 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 a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being mis-understood and mis-applied, 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

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hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

More recently, in the case of State of Haryana & Anr. vs. Haryana Civil Secretariat Personal Staff Association, JT 2000(5) SC 189, while dealing with the same controversy, the principle of law was reiterated to be:

"8. From the discussions in the impugned judgement it is clear to us that the High Court has ignored certain settled principles of law for determination of the claim on parity of pay scale by a section of government employees. While making copious reference to the principle of equal pay for equal work and equality in the matter of pay, the High Court overlooked the position that the parity sought by the petitioner in the case was with employees having only the same designation under the central government. Such comparison by a section of employees of state government with employees of central government based merely on designation of the posts was misconceived. The High Court also fell into error in assuming that the averment regarding similarity of duties and responsibilities made in the writ petition was unrebutted. The appellants in their counter affidavit have taken the specific stand that no comparison between the two sections of employees is possible since the qualifications prescribed for the P.A.s in the central secretariat are different from the P.A.s in the state civil secretariat. Even assuming that there was no specific rebuttal of the averment in the writ petition that could not form the basis for grant of parity of scale of pay as claimed by the respondent. The High Court has not made any comparison of the nature of duties and responsibilities, the qualifications for recruitment to the posts of P.As in the state civil secretariat with those of P.A.s of the central secretariat."

The Supreme Court held that comparison by a section of employees of state government with employees of central

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government, based on discrimination was misconceived. The Supreme Court further advised that courts should approach such matters with restraint and interfere when only they are satisfied that the decision of the government is patently irrational, unjust and prejudicial to a section of employees. This is because the Supreme Court held that ordinarily a pay scale is evolved keeping in view the method of recruitment, the level on which recruitment is made, hierarchy of service, qualifications, avenues of promotion, employer's capacity to pay etc.

8. In this backdrop, we have to revert back to the facts of the present case. Though applicants wanted us to believe that in all matters their duties are identical, the said fact is being denied by the respondents. The respondents have considered the question afresh after the decision of this Tribunal. On consideration of the same opined that the duties of the applicants are totally different from the persons working in the different other Ministries. The relevant part of the said order dated 6.9.2002 reads:

"On comparison of duties and responsibilities, prescribed nature and out turn of work etc. as provided (copy enclosed) by the applicants in the O.A. No. 1139/99 and Additional Affidavits it may be observed that duties and responsibilities of Machine man Gr.I in the Ministry of Communications and that of the Budget Press are entirely different to that of Offset Machine man in the Govt. of India Presses under Dte. of Printing. the Machine man Gr.I of Postal Printing Press is responsible for getting the work done from his crew mates of his machine. He is responsible for

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accountability of his shift/machine working hours, production, paper/material. He is also to supervise the removal of salvage papers from the reel and also hand over the same to Technical Officer recording its weighment in respective reel register for its accountability, and ensure correct placement of plates keeping the imposition scheme in view to reduce unnecessary idleness of machine and achievement of higher norms. WHEREAS, the Offset Machine man (Machine Operator) in the govt. of India Presses, is required to work on a single colour, double colour or two colours. He checks up the set of the Board, Inking Units and is required to check up the Pressure Rollers. He ensures that the machines are neat and clean. He further sees that the plates mounting on the machines are properly fixed and make ready is done within time. He takes the list of the jobs and shows the clean sheet to the Technical Officer before printing. He has to produce desired quality and quantity of work most economically and shall adhere to the norms fixed for the machines, and deliver the printed sheet to the Incharge, Binding Section. On scrutiny of the above, it may be seen that Machine man Gr.I of Postal Printing Press are carrying much higher responsibilities than those of Offset Machine man in the Govt. of India Presses under Dte. of Printing. The duties and responsibilities of Machineman of Budget Press/Security Printing Press/bank Note Press have not been compared to that of Offset Machine man in the Dte. of Printing as the Vth CPC which was set up by the Govt. of India to look into the various aspects of the pay matters being expert body, vide its Para 55.217 of its Report has stated "the status of the Security Printing Press and Bank Note Press under the Ministry of Finance is different, being state of the Art Printing Presses. These are not comparable with Govt. of India or Railway Presses. There is a slight difference in the pay structure of Officers recommended by us in Security Presses as compared to Govt. of India/Railway Presses."

9. The respondents have considered not only

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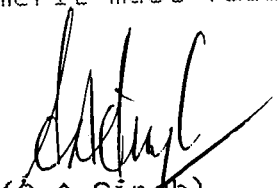
that but have made available to us the educational qualifications for the post and also the educational qualifications and duties of others posts in the Postal Printing Press, Bhubneshwar i.e. the post of Machineman, the post of Machine Operator in the Budget Press, Ministry of Finance and Railway Printing Press, Ministry of Railways the post of Master Craftsman. The duties appears to be different. We have already referred to above, the fact that merely because they are described to be in Printing Presses is not the sole determining factor. The court while enforcing the principle of "equal pay for equal work" will necessarily have to look into the totality of the facts and the circumstances in this regard. The applicants have to satisfy this Tribunal that not only the nature of work is identical but in all respect they belong to the same class.

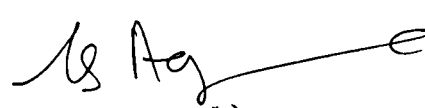
10. As we notice from the pleadings of the parties, not only there is a difference in the recruitment rules vis-a-vis the educational qualifications that are prescribed but there is also difference in the nature of duties. We have reproduced above the extract of the same difference which requires no re-production. In the present case, we are satisfied that it is not established that duties are totally identical and that there is discrimination of similarly situated employees. When such a difference

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exists, merely stating that they are also Offset Machineman would not be a factor to prompt us to hold accordingly in favour of the applicants. In the present case, in the absence of there being hostile discrimination, we find that there is no ground for interference.

11. Resultantly, the application being without merit must fail and is dismissed. No costs.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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