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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1242/99

Hon'ble Shri V.K.Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 21st day of March, 2001

1. Transport Employees of Welfare
Association through its Secretary
H.C. Azad Sehgal
s/o Sh. Uttam Chand Sehgal
r/o 23/25, Moti Nagar
New Delhi - 15.
2. Inspector Parma Nand Sharma
s/o Late Sh. Nanak Chand Sharma
r/o X/7594, Amar Mohalla
Gali No.4, Raghbir Pura No.2
Gandhi Nagar, Delhi.
3. Sub-Inspector Attar Singh Kaushik
s/o Sh. Bhim Singh Kaushik
r/o J-2/18, Khirki Extn.
Malviya Nagar
New Delhi.
4. ASI Ashok Kumar
s/o late Sh. R.K.Kaushik
r/o 23/25, Moti Nagar
New Delhi - 15.
5. Constable Anil Kumar
s/o late Sh. Ram Rikh
r/o H.No.139, Garhi Village
New Delhi - 55. ... Applicants

(By Advocate: Shri Naresh Kaushik)

Vs.

1. Union of India through
Lt. Governor
Raj Niwas
Delhi.
 2. Chief Secretary
5, Sham Nath Marg
Govt. of NCT of Delhi
Delhi.
 3. Principal Secretary-cum-Commissioner
(Transport) 5/9 Under Hill Road
Transport Department
Govt. of NCT of Delhi
Delhi.
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4. Secretary (Finance)
5, Sham Nath Marg
Govt. of NCT of Delhi
Delhi. ... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R(Oral)

By Mr. V.K.Majotra, Member(A):

In this OA the applicants are seeking implementation of the decision taken under the Chairmanship of the Chief Minister of Delhi in the meeting held on 10.8.1998 relating to the grant of parity in pay scales to the ranks of Transport (Enforcement) Department with those of Delhi Police w.e.f. 1.1.1996 or at least w.e.f. 10.8.1998 along with arrears.

2. Whereas the applicant No.1 is Secretary of the Transport Employees Welfare Association, which is duly registered under the Societies Registration Act and rest of the applicants are the officials of the Transport (Enforcement) Department, Delhi and its beneficiaries. The Association has in it members from various categories of the enforcement branch of the Delhi Transport Department such as Constable, Head Constable, ASI, SI and Inspector. The applicants have submitted that whereas in 1959 officials of Delhi Police as well as Transport Department had the same pay scales upto the period covered under the Third Central Pay Commission, from Fourth Central Pay Commission, the pay scales of the personnel of Delhi Police have been upgraded vis-a-vis those of the personnel of the Transport Department. It is contended that whereas the qualifications of the personnel of Transport Department are superior to

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those of Delhi Police, duties and responsibilities of officials of both the departments are similar. Earlier, the applicants had filed OA No.1087/94 which was decided on 26.5.1994 with the following observations/directions:

"In view of these facts and circumstances, the present application is disposed of at the admission stage with the direction that the applicants through proper channel may make representations for consideration of the expert body constituted as said above. This application is decided, accordingly. The association shall be free to directly file the representation if the representation sent through proper channel does not reach its destination. No costs."

3. Accordingly the applicants made representation dated 26.3.1998, Annexure/P-XI to the Commission-cum-Secretary (Transport), Transport Department, Delhi and another representation dated 28.7.1998 addressed to the Chief Minister, Govt. of NCT of Delhi. The applicant had earlier made a representation to the Fifth Central Pay Commission on 23.8.1994, Annexure/P-IX. However, it is contended before us that the same was not considered by the Fifth Central Pay Commission.

4. The learned counsel for the applicant also brought to our notice the minutes of the meeting held on 10.8.1998, Annexure/P-XIII, a meeting held by the Chief Minister, with regard to the difficulties of the employees of Enforcement Branch, Deptt. of Transport, Govt. of NCT of Delhi. The following decision was taken in the said meeting:

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"A detailed discussion was held in the meeting on the pay scales of employees of Enforcement Branch, Department of Transport and it was noticed that these employees are being paid less pay-scales than the employees of Delhi Police despite similar nature of work and higher educational qualifications. After discussing the matter at length it has been decided that the same pay scales and allowances be given to these employees as given to Delhi Police personnel in all ranks. In this regard Hon'ble Chief Minister issued instructions that a Cabinet Note be prepared to bring pay scales of these employees equal to pay scales of Delhi Police and put up the same in the meeting of cabinet to be held in next week for sanction."

5. It is alleged that no further progress has been made despite the aforestated decision.

6. In their reply the respondents have stated that the duties and responsibilities of Delhi Police are much more onerous than the personnel of the Transport Department and no specific recommendations were made by the Fifth Central Pay Commission for the staff of Enforcement Wing of Transport Department in Chapter 104 of their report which deals with the pay scales of the Union Territories.

7. We have heard the learned counsel on both sides and perused the material on record.

8. The applicants have filed rejoinder also.

9. The learned counsel for the respondents Shri Ajesh Luthra, at the out set, raised an objection relating to non-impleadment of the necessary party, i.e., the Union of India through Secretary, Ministry of Surface Transport. In this regard, the learned counsel for the applicant contended that Lt. Governor, Delhi having been made as party, it is not necessary to implead Union of India. We find that in the earlier OA 1087/94 filed by the same applicants,

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Union of India was a party. Lt. Governor or Chief Secretary of Govt. of NCT of Delhi are not competent to finalise the pay scales of officials of the Government of NCT of Delhi. It is the Union of India through Secretary of the concerned ministry or the department who can consider and grant the pay scales to the officials of Government of NCT of Delhi. In our view, therefore the present OA suffers from the vice of non-impleadment of a necessary party.

10. The learned counsel for the applicant had brought to our notice Annexure/P-VII which is a judgment dated 7.12.1990 passed in OA 80/87 where the issue of pay scales of the members of the Central Jail Employees Association was raised. It was disposed of with the following orders and directions:

"(i) As the qualifications for appointment of Warders and Head Warders in the Central Jail have been brought on par with their counterparts in Delhi Police and the duties and responsibilities being comparable, we hold that the mere fact that there was disparity in the pay scales before the IVth Pay Commission, will not be a good ground for denying them equal pay for equal work. The respondents are, therefore, directed to give the Warders and Head Warders of the Central Jail the same pay scales as that of Constables and Head Constables in the Delhi Police with effect from 1.1.1986. The arrears of pay and allowances shall be released to them within a period of three months from the date of receipt of this order.

(ii) The respondents shall consider the request for parity in the pay scales between the technical staff working the Central Jail with their counterparts employed in the Prisons at Punjab and Haryana. If the duties and responsibilities of such staff are found to be similar, they would be entitled to the same pay and allowances as those of their counterparts employed in the Punjab and Haryana Prisons and in that event, they would be entitled to the parity in the pay scales with effect from 1.1.1986. The arrears of pay and allowances should

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be released to them within a period of three months from the date of receipt of this order.

There shall be no order as to costs."

11. The learned counsel for the respondents contended that the Govt. of NCT is not competent to decide the pay scales of the applicants. He further mentioned that duties and responsibilities of the personnel of Delhi Police are much more arduous and onerous than those of applicants as the Delhi Police has to deal with crime, riots and law and order which duties and responsibilities are much more arduous and onerous than those performed by the applicants.

12. At this stage, we are not disposed to consider the parity between the applicants and the Delhi Police on the basis of their qualifications, duties and responsibilities when applicants' representations dated 26.3.1998 and 28.7.1998, Annexure/XI collectively have still not been disposed of by the respondents. In our view, it would suffice in the interest of justice if the respondents are called upon to decide the issues contained in the above representations by passing a detailed, reasoned and speaking order within a stipulated period. Accordingly, this OA is disposed of directing the respondents to decide the issue of granting parity in pay scales to the ranks of Transport (Enforcement) Department with those of Delhi Police w.e.f. 1.1.1996 or at least w.e.f. 10th August, 1998 along with the question of arrears in case parity is granted, within a period of four months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

V.K. Majotra

(V.K. MAJOTRA)
MEMBER(A)

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