

Central Administrative Tribunal, Principal Bench

O.A. 147/1999

New Delhi, this the 15th day of November, 2000

Hon'ble Mr. Kuldeep Singh, Member (J)  
Hon'ble Mr. M.P. Singh, Member (A)

1. Jaiveer Singh S/o Shri Jagdish Ram
2. Brahm Singh S/o Shri Shyam Lal
3. Sripal Singh Tomar S/o Shri Gajraj Singh
4. Ram Singh S/o Shri Ganga Sahay
5. Nahar Singh S/o Shri Manphool Singh
6. Rajinder Varishtta S/o Shri Mange Ram
7. Dharanvir S/o Shri Chander Singh
8. Harish Kumar S/o Shri Jai Singh
9. Tot Raj S/o Shri Krishan Lal
10. Anil Kumar S/o Sh. Ishwar Singh
11. Sandeep Kaushik S/o Shri R.D. Kaushik
12. Naresh Kumar S/o Shri Nihar Singh
13. Aman Kumar Bhardwaj S/o Sh. Ram Kishan Pal
14. S.N. Drivedi S/o Shri C.S. Drivedi
15. Prahlad Singh S/o Shri Inder Singh
16. Vijay Kumar S/o Sh. Aman Lal
17. Ombir Singh S/o Sh. Bheem Chand
18. Om Parkash S/o Sh. Kishan Chand
19. Kunwar Pal S/o Sh. Hem Singh
20. Rajinder Persad S/o Sh. Mathura Dass ..Applicants

(All working at Flood and Irrigation Department  
Govt. of NCT of Delhi, 4th Floor,  
ISBT, Delhi)

By Advocate Shri Rishi Kesh.

Versus

1. The Chief Engineer (Floor & Irrigation) Govt. of NCT of Delhi,  
4th Floor, ISBT, Delhi.

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2. Govt. of NCT of Delhi through its Chief Secretary, 5, Sham Nath Marg, Delhi,
3. Development Commissioner (F&I) Govt. of NCT of Delhi, 5, Under Hill Road, Authority Building, Delhi.
4. Lt. Governor of Delhi, Rajniwas Marg, Delhi.

..Respondents

By Advocate: Shri Rajinder Pandita.

ORDER

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

This OA has been filed by the applicants, who are 20 in number and who are working as Non-Technical Supervisors (hereinafter referred to as NTS), seeking pay parity with the Supervisors of other departments.

2. The facts in brief are that all the applicants are working in the Irrigation and Flood Control department of respondent No.2. Earlier they were employed on casual basis but by virtue of a judgment of the Hon'ble Supreme Court, the applicants claim to have been regularised in the pay scale of Rs.950-1500 (pre-revised) but they are claiming that they should have been given the pay scale of Rs.1400-2300.

3. They further claim that they were employed as Class-III employees and are entitled to scale of Rs.1400-2300 but they had been regularised in the pay scale of Rs.950-1500, which is admissible to class-IV employees.

4. It is further stated that the applicants are entitled to the pay scale of Rs.1400-2300 right from the dates when they were regularised, i.e., w.e.f. 1.6.1989 and they are entitled to the arrears as well.

5. They also claim parity with employees of the status posts working with the Central Government, Autonomous and Corporate Bodies who have been given the pay scale of Rs.1400-2300 so the respondents cannot deny them the pay scale as given to the employees of similar status in other departments.

6. They also claim that on the basis of equal pay for equal work, they are entitled to the pay scale of Rs.1400-2300. They have also quoted an example of office staff working in organisation outside the secretariat and stated that there are Supervisors and Technical Assistants who are getting the pay scale of Rs.1400-2300 and since the applicants are holding the post of NTS and keeping in view the nature of duties and responsibilities they are not different in any category to those Supervisors of Social Welfare department and Assistants who have been working in various other Government departments, as such it is stated that they are also entitled to the pay scale of Rs.1400-2300.

7. Respondents contested the OA and in their reply they have stated that all these NTS workers had been employed in deference to the order of the Tribunal in OA No.191/96 and Writ Petition No. 253/88 before the Hon'ble Supreme Court of India and they had been appointed against the post of work charged establishment as NTS/work

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assistants which carry the pay scale of Rs. 950-1500. They further claim that no employee of the work charged establishment is being given the pay scale of Rs. 1400-2300.

8. It is also stated that the applicants are being paid salary in compliance with the directions of the Tribunal and the directions given by the Hon'ble Supreme Court and they had also been given the replacement scale as per the recommendations of the 5th Pay Commission. A comparison drawn by the applicants is also erroneous and it is stated that the applicants are not entitled to the pay scale of Rs. 1400-2300.

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

10. It is a well settled law that pay fixation is not the job of the Tribunal rather this job has been left for the Expert Bodies like the Pay Commissions etc. But in case if any group of employees have been treated with a hostile discrimination at the hand of the employer, then the Tribunal can certainly interfere.

11. In this case though the applicants have tried to draw comparison with the Supervisors of the various other Government departments and Corporate Bodies but the applicants have not provided any material to show the Recruitment Rules of different set of employees and as to what are their qualifications at the time of entry into service and what is the nature of job being performed by the other employees with whom the applicants want to draw a

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comparison and what is their job profile. On the contrary, the respondents have submitted that on the work charged establishment, the NTS workers are all being paid in the pay scale of Rs.950-1500 and it is only the JEs who are getting pay in the pay scale of Rs.1400-2300, so the applicants cannot claim parity with them.

12. We have also gone through the entire pleadings and from a comparison alleged to have been drawn by the applicants we find that none of the employees with whom the applicants want to draw a comparison are working on the work charged establishment and the employees of the same status are being paid Rs.1400-2300. We may also refer to the judgment reported in JT 1997 (3) SCC page 569 entitled as U.O.I. & Others vs. P.V. Hariharan & Others wherein the Hon'ble Supreme Court has observed as under:-

"5. 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 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

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

13. So from the entire arguments and material on record we find that no case of hostile discrimination is made out and in view of the observations made by the Apex Court in the case of Hariharan (Supra), quoted above, we find that this OA does not call for any interference which is accordingly dismissed. No costs.

*MPS*  
( M.P. Singh )  
Member (A)

*K.S.*  
( Kuldip Singh )  
Member (J)

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