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Central Administrative Tribunal, Principal Bench

Original Application No.2561 of 1999

New Delhi, this the 13th day of July, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman  
Hon'ble Mr. V.K. Majotra, Member (Admnv)

1. Manjit Singh, S/o Pritam Singh, R/o 1/9424, Gali No.7, West Rohtas Nagar, Shahdara, Delhi-110032.
2. V.Nagaraju, S/o N.Srinivasarao, R/o B-188, Phase-I, Ashok Vihar, Delhi-52.
3. Promila Gupta, W/o Shri Babu Ram Gupta, R/o X-3721, Shanti Mohalla, Ganesh Nagar, Delhi-31.
4. Hermon Minj, S/o Shri A.Minj, R/o 131/12, Sec.-I, Pushp Vihar, New Delhi-110017.
5. Kanta Kalyan, W/o Sh.Om Parkash, R/o 20-B, Pkd-B, LIG, DDA Flats, Shahdara, Delhi.
6. I.P.S.Kohli, S/o Chat Singh, B-181, Fateh Nagar, New Delhi-110018.
7. Sarita Arora, W/o Sh.Hakikat Rai, R/o FA-14, Mansarovar Garden, New Delhi-110015.
8. Sunder Lata Gupta, W/o Sh. Vinod Kumar, R/o A-1/ 266-A, Uttam Nagar, New Delhi-110059.
9. Amar Parkash, S/o Sh.Durga Prasad, R/o 81, Navin Park, Shyam Park Extn., Sahibabad, Ghaziabad.
10. Amita Kochhar, W/o Shri S.C.Kochhar, R/o Flat No.2, Plot No. 59, Jai Laxmi Apartment, I.P. Extension, Delhi.
11. Kashmir Singh Thiran, S/o late Sh.G.L.Thiran, R/o GH-5 & 7/321, Paschim Vihar, New Delhi-87.
12. Ramesh Kumar Sharma, S/o Shri K.N.Sharma, R/o A-3/201, Sector-Rohini, Delhi.
13. Asha Rani, W/o Shri Toko Garg, R/o 137-C, Pocket-A Mayur Vihar-II, Delhi-110091.
14. Anjela Toppo, W/o Coinelius Toppo, R/o M-125, Sector-IV, Pushp Vihar, Delhi-110017.
15. S.S.Gehlawat, S/o Sh.Hukam Singh, R/o C-39, Karam Pura, New Delhi.
16. Kamlesh Sarin, W/o Shri Y.P.Sarin, R/o Sec.VIII/422, R.K.Puram, New Delhi.
17. G.D.Sharma, S/o Sh.Madan Mohan Sharma, R/o A-11, Dayanand Colony, Lajpat Nagar-IV, Delhi-110024.
18. P.S.Rana, S/o Shri Alam Singh, R/o Sec.IX/458, R.K.Puram, New Delhi.
19. Kripal Singh, S/o Shri J.S.Manral, R/o Sec.V/109, R.K.Puram, New Delhi.

- 20.D.V.Sharma, S/o Shri Gurbax Raj, R/o H.No.3/8,  
Jaidev Park, East Punjabi Bagh, Delhi.
- 21.Girija Prasad, S/o Sh.Mahavir Prasad, R/o A-150,  
Moti Bagh-I, New Delhi.
- 22.Chain Singh, S/o Shri Ram Singh, R/o H.No.532,  
Nangloi, Village, Delhi-110041.
- 23.Jaswinder Kaur w/o Harbhajan Singh, R/o C-233,  
Albert Square, Gole Market, New Delhi. - Applicants

(By Advocate Shri S.K.Gupta)

Versus

1. Union of India, through Secretary, Department of  
Personnel & Training, North Block, New Delhi.
2. Secretary, Department of Revenue, Ministry of  
Finance, North Block, New Delhi.
3. Director General, Inspection, Customs & Central  
Excise, I.P.Bhawan, New Delhi. - Respondents

(By Advocate Shri D.S.Mahendru)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

The applicants in the instant case are Assistants in the Office of the Director General, Inspection, Customs & Central Excise. They claim parity of pay on the basis of relief having been granted to candidates similarly placed by the judgment and order passed by this Tribunal on 5th April, 1999 in O.As.Nos. 1869/92 and 2870/92 at Annexure-A-3.

2. It is not disputed applicants in aforesaid OAs have been granted the revised pay scale of Rs.1640-2900 with effect from 1.1.1986. It is further not disputed that applicants are similarly placed <sup>as</sup> to the applicants <sup>in</sup> to aforesaid OAs. It is, however, pointed out that aforesaid order of this Tribunal has been challenged in the High Court by filing CWP wherein rule has been issued. The decision of the Tribunal in the circumstances is pending consideration of the High

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Court. It is, however, conceded that no stay has been granted by the High Court to aforesaid order passed by the Tribunal. It is further conceded that aforesaid order of the Tribunal has been implemented as far as the applicants in the said OAs are concerned. However, as the applicants in the instant OA are concerned, it has been stated that though aforesaid order has been implemented that has been done only in regard to the applicants therein. As far as the applicants in the present OA are concerned, they will have to await the decision of the High Court. A situation similar to the one which has arisen in the present case had arisen before us in the case of Smt. Simi Thukral Vs. Union of India & another, O.A. No. 419/2000 decided on 4th July, 2000. It has inter alia been observed by us in aforesaid order as under :-


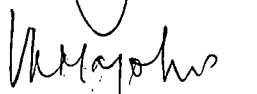
2. As far as the claim of the applicant is concerned, that relates to the decision of the Tribunal in OA No. 407/97 at Annexure A-1 though challenge to the same is pending in the High Court. The same has not been stayed either by the High Court or by the Supreme Court. The order of the Tribunal, therefore, very much hold the field. The same is also binding upon us.

3. The Supreme Court in the case of Ashwani Kumar & Ors. Vs. State of Bihar & Ors. 1997 SCC (L&S) 267 has held that Parties who failed to approach the Court cannot be ignored and all affected persons whether parties or not to be included for grant of the relief. Hence employees who are similarly circumscribed and who might not have approached the High Court or the Supreme Court earlier and who may be waiting in the wings would also be entitled to claim similar relief against the State which has to give equal treatment to all of them otherwise it would be held guilty of discriminatory treatment which could not be countenanced under Articles 14 and 16(1) of the Constitution of India.

4. If one has regard to the aforesaid decision as also the decision of this Tribunal of 9.1.98 in OA 407/97 which, as already observed, holds the field, applicant herein will be entitled to the new scale in the present O.A.

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3. If one has regard to aforesaid observations contained in the order passed by us we find that the applicants herein are entitled to the grant of the very same reliefs which have been granted in aforesaid OAs 1869/92 and 2870/92, namely, pay scale of Rs.1640-2900 with effect from 1.1.1986 or thereafter as the case may be. We direct accordingly. Payment of arrears pursuant to the present order shall be limited to one year prior to the filing of the present OA, which has been filed on 30th November,1999. The applicants would, in the circumstances, be entitled to payment of arrears with effect from 1st December,1998. The respondents shall comply and grant reliefs to the applicants herein within a period of three months from the date of receipt of a copy of this order. Present O.A. is allowed in afore-stated terms. No order as to costs.

  
(Ashok Agarwal)  
Chairman  
  
(V.K. Majotra)  
Member (Admnv)