

Central Administrative Tribunal
Principal Bench

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O.A.No.869/1999

Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Smt. Chitra Chopra, Member(A)

New Delhi, this the 10th day of November, 2006

1. Central Jail Employees Association
New Delhi, through its General Secretary
Chandra Dutt Sharma
Tihar Jail, New Delhi.
 2. Ram Dayal Pal
S/o Late Ram Sumer Pal
Warder, Central Jail (No.5)
Tihar, New Delhi.
- ... Applicants

(By Advocate: Sh. Shyam Babu)

Vs.

1. The Home Secretary
Government of India
South Block
New Delhi.
 2. The Chief Secretary
Govt. of NCT of Delhi
Old Secretariat
Delhi.
 3. Addl. Director General cum I.G. Prisons,
Prison Headquarters
Tihar Jail Campus
New Delhi.
- ... Respondents

(By Advocate: Sh. Vijay Pandita) Per R2-R3.

ORDER

By Justice B. Panigrahi, Chairman:

This case has suffered a chequered history. It is continuing more or less from 1990 onwards in some or other manner.

2. The application has been filed by Central Jail Employees Association through its General Secretary (Applicant No.1) and

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another Warder, Central Jail, Tihar, New Delhi seeking implementation of the directions issued by the Tribunal in MP No.113/1990 in OA No.80/1987 dated 7.12.1990 to grant them ration money, washing allowances, Metropolitan allowances and complete house allowance with effect from 1.1.1986 which was allegedly paid to their counter parts in Delhi Police. It appears that they had earlier filed a case being OA No.80/1987 claiming parity in the matter of scale of pay with the personnel of Delhi Police Force. The Tribunal vide order dated 27.1.1988, was inclined to direct the respondents to examine the claim of the applicant in the light of the recommendations made by the Mulla Committee and implement their decision within six months. Since there was considerable delay in considering the applicants' case in the light of the Mulla Committee's recommendations, they filed a Miscellaneous Petition being MP No.113/1990, which was treated by the Tribunal as OA and disposed of in the following manner:

- (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

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between the technical staff working in 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 from 1.1.1986. The arrears of pay and allowances should 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."

3. Thereafter, RA 550/1991 was filed in OA No.80/1987 which was rejected on 9.4.1991. A Contempt Petition No.164/1991 was filed alleging non-grant of the allowances to the applicants. The Tribunal vide order dated 26.3.1992 rejected the prayer for allowances but granted parity in scale of pay to the applicants.

4. In this application, they claim washing allowances, complete house allowances and Metropolitan allowances as admissible to their counterparts in Delhi Police as well as the ration money, which had already been paid to them with effect from 1.1.1986. It is contended that although the order of the Tribunal had been complied with in so far as the pay of the applicants is concerned at par with Delhi Police, yet other allowances have not been granted to them. The washing allowances, in the meantime, had been increased after implementation of the recommendations of the 5th Central Pay Commission. The Delhi Police claimed complete HRA, ration money, washing allowance and Metropolitan allowance. The State Government in the meeting held on 7.10.1998, had decided to grant ration money to all non-Gazetted

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police personnel of Delhi Police with effect from 1.4.1998 but the claim of the present applicants for grant of ration money, Metropolitan allowance, etc was rejected by Government of India on the ground that the service conditions of the Central Jail are quite distinguishable with that of the Delhi Police. It is found that the Delhi Police had been granted ration money with effect from 1.1.1986 by virtue of an order passed by a learned Single Judge but the Union of India was reluctant to extend the same benefit to these applicants only on the ground of pendency of several litigations.

5. The respondents in their reply have taken a legal plea of applicability of doctrine of resjudicata. In this regard, they stated that the applicants had approached the Tribunal earlier for non-compliance of the order passed in MP No.113/1990 in OA No.80/1987 and the Tribunal rejected their plea on the ground that granting pay parity to Warders and Head Warders of Central Jail with their corresponding ranks in Delhi Police could not be implemented.

6. In so far as the ration money, Metropolitan allowance and complete house allowance to the Warders was concerned, the Tribunal did not record any order. In this regard, Delhi Government passed an order dated 3.8.1999, wherein it had been decided that ration money to all these Jail Officials could not be granted as the matter had already been stayed by the Hon'ble High Court and secondly, the nature of duties of the Police Officials and nature of duties of the Jail Officers were distinct and separate. There was no

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recommendation from Government of India for grant of ration money to the Jail Officials.

7. The applicants, on the other hand, have disputed with regard to the plea taken by the respondents that the nature of duties of Jail Staff and Delhi Police could be distinct and separate. The applicants have stated that the Commissioner of Police had passed an order on 5.7.1999 by sanctioning the ration money to all non-gazetted police personnel with effect from 01.04.1998 and washing allowance at the rate of Rs.20/- per month.

8. The Tribunal upon hearing the learned counsel appearing for both the parties and on perusal of the records of the case, directed that the washing allowance as payable to the Delhi Police personnel should also be equally applicable to the applicants herein but as regards other reliefs sought by the applicants, the same were not granted at par with the Delhi Police. In this regard, basing on the reply submitted by the respondents, the Tribunal directed that the matter could be examined after Government of India takes a decision in this regard. Being aggrieved by the Judgement passed by this Tribunal, the applicant approached before the Hon'ble High Court in CWP No.5482/2001. The Hon'ble High Court has passed the following order:

"This writ petition can be disposed of at this stage itself. It is not disputed that parity in the pay-scale was given to the petitioner viz a viz Delhi Police pursuant to the order passed by Central Administrative Tribunal in 1992. It is contended by learned counsel for the petitioner that Tribunal has opined that relief of ration money cannot be granted to the petitioners because they did not demand it in the year 1992 in some earlier matter. There is no dispute that ration money was given to Delhi Police personnel in the year 1998, therefore,

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obviously, there was no question of the petitioners demanding ration money in the year 1992. We, therefore, set aside the impugned order and direct the parties to appear before the Tribunal on 05.04.2005. Tribunal will again hear the parties and pass appropriate order on merits in accordance with law.

Writ petition stands disposed of."

9. We have heard the learned counsel at length. In the earlier case, being OA No.80/1987, the applicants had claimed for grant of similar scales with that of Delhi Police Force in the scale of pay of Rs.260-350. There was no claim in so far as the other allowances are concerned in the earlier litigation. It is not in dispute that the nature of duties and responsibilities of the applicants are reasonably comparable with the nature of duties and responsibilities of the Delhi Police staff. Therefore, the Tribunal directed the respondents to examine their claim with regard to grant of scale of pay, which the respondents undisputedly extended the benefit of the similar pay with that of Delhi Police. Since there was no recommendation of the Government of India with regard to other allowances, the Delhi Government declined to grant the same benefit.

10. Here, in this case, we find that the payment of ration money was considered only in 1999 after the Delhi Police officials filed Writ Petition before the Hon'ble High Court. The Hon'ble High Court in Writ Petition No.2968/1995 vide order dated 9.10.1998, upon the application filed by the Delhi Police personnel, directed that ration money being important component of the remuneration, be paid to the Delhi Police for the service rendered by them. The claim for ration money was held to be quite reasonable. On the

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basis of said direction, the Delhi Government examined the claim of Delhi Police officials and granted them the ration money.


11. So far as the nature of duties and responsibilities of the applicants is concerned, it is no longer res integra that these are comparable with the nature of duties and responsibilities of the Delhi Police officials. Accordingly, respondents have already granted them the same salary as that of Delhi Police. The respondents have also extended the benefit of washing allowance to the applicants. The applicants' grievance is that full washing allowance is not granted them. In this backdrop, we therefore, direct the respondents to examine the claim of the applicants in so far as washing allowance is concerned in par with the Delhi Police. Since there was an earlier order in respect of the payment of washing allowance, there could be no discrimination regarding the payment of such allowance to the applicants in par with the Delhi Police officials.

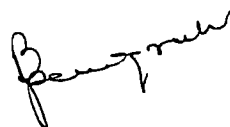
12. In so far as ration money is concerned, in previous litigation filed by the applicants, it could be contended by the respondents that these applicants failed to lay any claim in earlier OA No.80/1987 (MP No.113/1990). At that time, such allowances had never cropped up for consideration before the Tribunal. For the first time, the Delhi Police officials had claimed such allowance by filing a Writ Petition before the Hon'ble High Court in CWP No.2968/1995 and the respondents were directed to make arrangements to pay ration money at the aforesaid rates to all Delhi Police personnel, who are eligible to get the same. The respondent-authorities implemented the orders of the Hon'ble High

Court and granted the benefit of ration money to Delhi Police personnel. Therefore, it is quite apparent that the applicants legitimately claimed such allowance after the Hon'ble Delhi High Court granted ration money to the Delhi Police. Since the applicants could not have claimed such amount at the time of filing OA 80/1987, it would, therefore, not be reasonable to hold that their claim is barred by res judicata. The respondents in their reply have stated that the matter is pending for final decision by the Delhi State Government as well as by Respondent No.1.

13. The claim made by the applicants appear to be reasonable inasmuch the salary and washing allowances had been granted to them in par with the Delhi Police personnel. So far as the ration money is concerned, since their service conditions, nature of duties and responsibilities are similar and identical to that of police personnel, therefore, their claim appears to be reasonable and legitimate. Accordingly, we hereby direct Respondents 1 to 3 to consider the claim of the applicants as regards the ration money in par with the Delhi Police within three months from the date of communication of the order.

14. The application is disposed of in the light of the above discussion.


(Smt. Chitra Chora)
Member(A)
/raol 10/11/06


(B. Panigrahi)
Chairman