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Central Administrative Tribunal, Principal Bench

Original Application No.2099 of 1998

New Delhi, this the 30th day of October, 2000

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

Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Central Engineering & Service Class-I (DR)
Association (Central Public Works Deptt.)
Level-II, East Block, R.K. Puram,
New Delhi-110066
Through Secretary
Shri Anil Kumar Sharma

2. Sarvagya Kumar Srivastava S/O
Shri S.K. Lal Srivastava
Superintending Engineer, CPWD
Vigyan Bhawan Circle
Vigyan Bhawan Annexe, M.A. Road,
New Delhi

- Applicants

(By Advocate - Shri Shyam Babu)

Versus

1. Union of India,
Through its Secretary (Expenditure)
Ministry of Finance,
New Delhi

2. Union of India,
Through its Secretary,
Ministry of Urban Affairs & Employment
Nirman Bhawan
New Delhi

3. Director General (CPWD)
Central Public Works Department
Nirman Bhawan,
New Delhi

- Respondents

(By Advocate - Shri M.K. Bhardwaj, proxy for Shri A.K.
Bhardwaj)

O R D E R

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

The applicant no.1 is an association of Central Engineering Service Class-I (DR). The association consists of Superintending Engineers (Civil), CPWD. Applicant no.2 is one of the Superintending Engineers. All the Superintending Engineers have minimum 13 years of service in group 'A' to their credit. They are seeking pay parity with

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Conservators of Forests.

2. The case of the applicants is that prior to 2nd Central Pay Commission (in short 'CPC'), the pay scales of Conservators of Forests were lower than the pay-scales of Superintending Engineers. 2nd CPC established a complete parity. Thereafter, successive Pay Commissions recommended pay scales. Upto 3rd CPC, there was no grievance. But 4th and 5th CPCs in comparison to Conservators of Forests had created further disparity. The applicants further state that while commenting upon the grade of Superintending Engineers in para 50.45, it appears that 5th CPC wanted to maintain parity between Superintending Engineers and Conservators of Forests. However, this parity, was not granted in the pay scales of Conservators of Forests and Superintending Engineers (Civil), CPWD and they recommended following pay-scales:

Pre-revised Revised

Conservators of Forests	Rs.5100-6150	Rs.16400-20000
Superintending Engineer	Rs.4500-5700	Rs.14300-18300
Dy.Conservator of Forest	Rs.4500-5700	Rs.14300-18300

3. Thus Superintending Engineers are made equivalent to Dy.Conservator of Forests.

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4. It is further stated that seeing this hostile discrimination, Respondent no.2 wrote a letter to Respondent no.1 recommending pay-scale of Superintending Engineer to the same level as that of Conservator of Forests. But respondent no.1 has failed to give parity in pay-scales to Superintending Engineers with Conservator of Forests.

5. Respondents did not file their reply despite having been granted several opportunities and ultimately vide order dated 30.9.99, right to file reply was forfeited.

6. We have heard learned counsel for the parties and gone through the records.

7. Mr. Shyam Babu appearing for the applicants submitted that since the parity of pay-scales between Conservator of Forests and Superintending Engineer (Civil) had been recognised right from 2nd CPC and even the 5th CPC had also accepted the parity in para 50.45 but while granting pay scales, applicants had been given lower pay scales. Learned counsel for the applicants also submitted that since Superintending Engineer and Conservators of Forests had been treated at par, so parity in pay scales should also be allowed.

8. But in reply to this, learned counsel for the respondents submitted that granting of pay scales is the job of expert bodies e.g. such as Pay Commission. Since 5th CPC have, after examining the

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case of applicants recommended the pay scales, the courts should not interfere in the matter of grant of pay scale. In this regard, learned counsel for respondents relied on the case of U.O.I. and Another Vs. P.V. Hariharan and Another, 1997 SCC (L&S) Page 338, wherein the Hon'ble Supreme Court had observed as follows:-

"C. Pay scale - Scope of judicial review - Unless a clear-cut case of hostile discrimination is made out, held, there should be no judicial interference with pay scales fixed by the Government on the recommendation of Pay Commission - Administrative Law - Judicial review of administrative action.

D. Pay scale - Fixation of, is the function of Govt. and not that of the Administrative Tribunals - Administrative Tribunals Act, 1985 - Ss.14 and 15 - Administrative Tribunals established under - Powers of - Administrative Law - Administrative or judicial function".

9. Relying upon the same, learned counsel for the respondents submitted that in view of the observations of the apex court, the O.A. should be dismissed.

10. Considering the respective contentions of the rival parties, we find as per the dictum of Hon'ble Supreme Court, the Tribunal is almost forbidden to interfere in the matter of pay scale unless it comes to conclusion that the applicants have been treated with hostile discrimination.

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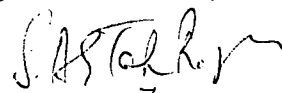
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11. However in this case, we do not find any hostile discriminatory treatment met out by 5th CPC to the applicants. The comparative chart (Annexure B) filed by applicant itself shows that even at the time of recommendations of 4th CPC, the parity was not maintained.

12. The recommendation made by respondent no.2 also cannot compel the respondents to grant applicants parity of scales at par with Conservator of Forests over and above the recommendations of 5th CPC.

13. We have to draw reasonable presumptions that 5th CPC must have done in depth study while recommending the pay scales to Superintending Engineers (Civil), CPWD, as such recommendations of respondent no.2 cannot override the same.

14. In view of the above discussion, we find that this OA does not call for any interference. It is, therefore, dismissed. No costs.


(S.A.T. Rive)
Member (A)


(Kuldip Singh)
Member (J)

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