

Central Administrative Tribunal, Principal Bench

Original Application No.40 of 1998

~ New Delhi, this the 30th day of January, 2001

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

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1. Shri Biri Singh
S/o Shri Parmanand
R/o RZ-129, Indra Park, Pankha Road
Uttam Nagar, New Delhi
2. Shri M.K.Sharma
S/o Shri Khacheru
R/o Village Tatarpur, P.O. Asaoli
Tehsil Pallwal, Distt. Faridabad
Haryana
3. Shri Kuldeep Singh
S/o Shri Suraj Mal
R/o Village & P.O. Pakasma
Distt. Rohtak, Haryana
4. Shri Jai Bhagwan Dhaman
S/o Shri Banwari Lal
R/o H.No.554/1, Lal Bahadur Shastri Nagar
Hissar Bye Pass, Rohtak
Haryana

- Applicants

(By Advocate - Mrs.Meera Chhibber)

Versus

1. Union of India, through
Secretary,
Ministry of Urban Affairs and Employment
Nirman Bhawan, New Delhi
2. Land and Development Officer
Ministry of Urban Affairs and Employment
Nirman Bhawan, New Delhi

- Respondents

(By Advocate - Shri N.K.Agarwal)

O R D E R (ORAL)

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

This OA has been filed by four applicants for issuing directions to respondents to grant them the same pay-scales which are being given to Surveyors in other Ministries and Autonomous Bodies of Government of India. In the alternative, applicants have prayed to grant them equal pay for equal work as they are performing the same duties and

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responsibilities which are being performed by the Overseers in the Office of Land and Development.

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2. Facts in brief are that all the applicants are working as Surveyors in the office of Land and Development which is a subordinate office of the Ministry of Urban Affairs and Employment. It is stated that the applicants are being given the pay scale of Rs.1200-2040 which has been revised to Rs.4000-6000 whereas in other Departments and Ministries, the Surveyors are getting the pay-scale of Rs.1400-2300 now revised to Rs.5000-8000. It is submitted that though the duties and functions being performed by the Applicants and Overseers in the Land and Development office are same, yet the Surveyors are getting the pay-scale of Rs.4000-6000 whereas Overseers are getting the pay-scale of Rs.5000-8000.

3. Besides, applicants have pleaded that some of the Surveyors of the Land and Development Department had filed O.A.1823/91 praying therein for grant of equal pay for equal work which the Surveyors and Overseers in the other departments are getting. That OA was disposed of with the following directions:

"We direct that the applicants will file a detailed representation showing that they are performing the same duties and responsibilities as similarly situated persons in other departments and that the work content and the quality of work performed by them is also the same and, therefore, they are entitled to the same pay scale as has been given to the Surveyors in other department. The respondents will forward the same to the Vth Pay Commission for consideration as a special case in view of the fact that this OA is pending before the Tribunal since 1991."

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4. After the decision in OA-1823/91, applicants are stated to have made certain representations but the same were not forwarded by the Ministry with their comments to the 5th Pay Commission and in any case, the representations without the comments of the Ministry concerned, were not expected to get proper consideration from the Pay Commission. The applicants have now prayed that the respondents may be directed to forward their comments to the Ministry so that appropriate action could be taken by the Government.

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5. O.A. is being contested by respondents. They have pleaded that as far the grant of parity in pay scales is concerned, it is not the function of the Tribunal as has been held by the apex court in a number of cases. Learned counsel for the respondents has submitted that the case of the applicants was considered by the 5th Pay Commission and it was opined by the Pay Commission that the existing pay-scales of Surveyors be retained. Shri Aggarwal submitted that since the matter regarding revision of pay-scale has recently been considered by the 5th Pay Commission and rejected, the Tribunal should not interfere in this matter and the O.A. should be dismissed. However, as regards applicant's prayer for a direction to respondents to forward the comments to the Ministry in reply to their letter dated 17.9.97 (Annexure P-1), learned counsel for respondents has pointed out that representations received from the applicants were forwarded to the 5th Pay Commission as per directions given in OA-1823/91. He also submitted that it was

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not specifically directed in the order of the Tribunal in OA-1823/91 to forward the representations of the applicants alongwith the comments of the Ministry concerned and since the 5th Pay Commission have rejected the prayer of the applicants for grant of higher pay scale, no relief can now be granted by the Tribunal in this case.

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

7. At the outset, learned counsel for the applicants has fairly conceded to give up the reliefs claimed in para 8(i), 8(ii) and 8(iv) of the OA. However, learned counsel prayed that at least respondents can be directed to forward their comments to the Ministry so that they could take appropriate action. Learned counsel further emphasised that even after the recommendations of the Pay Commission, the matters are referred to the Anomaly Committee or Government can also, on its own, take action on the representations filed by a group of persons/Associations after the same are commented upon by the Ministries concerned and grant higher pay scales, as has been done in the case of Surveyors in other departments.

8. Shri Aggarwal argued that applicants' prayer in relief clause 8(iii) of the OA that direction be given by this Tribunal to the department to reply a letter sent by the Ministry, which is inter-se correspondence between the Ministry and the Department, is not maintainable and justiciable.

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9. On this aspect, we are also of the considered opinion that as per the provisions of the Administrative Tribunals Act, the applicants can approach the Tribunal if they are aggrieved of some order but in this case, since the applicants have prayed for issue of a direction to the respondents to reply to a letter sent by their nodal Ministry, we find that this prayer is not justiciable and for this purpose, no directions can be issued by the Tribunal directing the respondents to reply to a particular letter received by them from their Ministry.

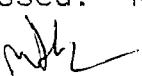
10. Learned counsel for the applicant also added that this court is exercising power under Article 226 of the Constitution of India which are akin to the powers of High Court for issue of writ, so while disposing of this O.A., the Tribunal can by way of a mandamus, direct the respondents to reply to the letter dated 17.9.97 sent by the nodal Ministry. In this regard, we may mention that before the court embarks upon the power of issue of mandamus, the applicant has to satisfy the court that he has a legal right to the performance of a legal duty by the respondents against whom the applicant is seeking mandamus and in this particular case, we find that the applicants have no legal right nor the respondents are under any legal obligation towards the applicant to answer a particular letter received by them in the normal course of business.

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11. Mandamus does not lie even to enforce departmental manuals or instructions not having any statutory force. Similarly the factum of replying to a particular letter by the respondents to their own Ministry does not create any legal right in favour of the applicants nor any legal duty on the part of respondents and the applicants cannot ask for issue of a writ or mandamus directing the respondents to reply to a letter received by them from their nodal Ministry.

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12. Under the circumstances, we find that there is no merit in this O.A., which is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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