

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1021 of 1998

New Delhi this the 15th day of September, 2000

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HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

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Vishakapatnam-530007.Applicants

(By Advocate - Shri Anil Srivastava).

Versus

1. The Union of India
Min. of Defence,
Through Secretary Defence,
South Block,
New Delhi-110 001.
2. Chief of Naval Staff,
Indian Navy,
Ministry of Defence,
South Block,
New Delhi-110 011. - Respondents

(By Advocate - Shri P.H. Ramchandani).

O R D E R

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

The applicants in this case have filed a joint O.A. claiming parity of scales as given to the Interpreters in the MEA in the corresponding posts. The cadre of applicants is in three levels, which is as follows:-

- (1) Level I - Translation Officer (Russian/English)
- (2) Level II - Senior Translation Officer
(Russian/English)
- (3) Level III - Editor Translator (Russian/English)

2. The corresponding level of officers in the

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Ministry of External Affairs are as under:-

- (1) Junior Interpreter
- (2) Senior Interpreter
- (3) Selection Grade Interpreter (Foreign Language)

3. The claim of the applicants is that the cadre of applicants were created sometime in the year 1967. They were in the grade of Rs.350-800 (Level I), Level-II in the grade of Rs.650-1200 and Level III in the grade of Rs.2000-3500 and the MEA scales before the Third Pay Commission was Rs.325-575 at the junior level. Third Pay Commission revised the scales and the applicants were given the scale of Rs.650-1200 at the junior level and the scale of Interpreters in the Ministry of External Affairs were revised from Rs.650-960. However, in the year 1978, the MEA of its own further revised the pay scale, i.e., from Rs.650-960 to Rs.700-1300 and thereby for the first time, the pay scale of Interpreters became higher than the pay of Translation Officers in the Indian Navy, who were placed in the pay scale of Rs.650-1200 and thereafter by 4th Pay Commission and 5th Pay Commission, their pay scales were revised and the gap between the applicants and the officers of the Ministry of External Affairs has been widened by the 4th Pay Commission and the 5th Pay Commission. The applicants claim that their representations for revision of pay scales with the Ministry of External

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Affairs had been recommended by the Ministry of Defence. Even the Memorandum was submitted by the Ministry of Defence before the 5th Pay Commission but the 5th Pay Commission turned down the representation of the applicants and had observed as under:-

"We find that the parity sought by the Russian Language Translators-cum-Interpreters in Indian Navy with the Interpreters' cadre in Ministry of External Affairs is not founded on similarity in recruitment qualifications and nature of duties. We, therefore, do not find justification for parity in grade structure between the Russian Language Translators-cum-Interpreters' cadre in Indian Navy with the Interpreters' cadre in Ministry of External Affairs."

4. Since the 5th Pay Commission had turned down the recommendation of the applicants, the respondents, i.e., the Ministry of Defence have expressed their inability to revise the pay scales of the applicants. Besides that, they have pleaded that the nature and duty of the Interpreters in the Ministry of External Affairs is quite different than those of the applicants.

5. The learned counsel for the respondents further submitted that the Pay Commission being an Expert Body considers similar cases in the Ministry/Departments of Government of India and after a detailed deliberation on overall basis, arrived at a conclusion in fixing the pay scales. Since the Expert Body had considered the issue of pay scales, so now no ground exists for this court to bring the applicants at par with the Interpreters of the Ministry of External Affairs.

6. In reply to this, Shri Anil Srivastava, the learned counsel appearing for the applicants submitted that a comparative study of Recruitment Rules and the qualifications prescribed therein show that the applicants are required to have higher qualification than those of their counter-parts in the Ministry of External Affairs. The duties also show that the applicants are required to translate technical documents whereas their counter-parts are to just interpret the Foreign Language into the English Language and vice versa and they are not required to interpret and translate the technical documents like the applicants. Besides that, the applicants had also been at ~~the~~ times asked to perform the duties of Interpreter, so if we compare their duties, qualification etc. then in all respects, the applicants are required to possess better qualification and are also required to perform the job which their counter-parts in the Ministry of External Affairs are performing.

7. It is further submitted that the applicants are required to translate technical documents, as such, the case of the applicants is a fit case where at least parity of scales as given to the employees of the Ministry of External Affairs be granted to the applicants, since at the time of initial constitution of the cadre the applicants were drawing higher pay scale than those of the employees of the Ministry of External Affairs.

8. Since all the contentions raised by the learned counsel for the applicants have been very recently considered by the 5th Central Pay Commission, we do not think that this court by its own order can direct the Government to grant the pay scales to the applicants at par with the Interpreters of the Ministry of External Affairs. In this regard we may also rely upon a case decided by the Hon'ble Supreme Court in the case of State of U.P. and Others Vs. J.P. Chaurasia and Others, (1989) 1 SCC 121 wherein Hon'ble Supreme Court had observed as follows:-

Service Law - Parity in employment - Pay - Fixation of - Executive function - Pay scales based on Pay Commission report - Court will not ordinarily interfere with - Historical fact that pay scale of Bench Secretaries was higher than Section Officers in Allahabad High Court in the past, in absence of any material showing the basis for the same, cannot be a ground to challenge the subsequent award of higher scale to Section Officers on the basis of recommendations of Pay Commission and Pay Rationalisation Committee having regard to their more onerous duties than the Bench Secretaries and other relevant factors - Allahabad High Court Officers and Staff (Conditions of Service and Conduct) Rules, 1975 - Constitution of India, Article 14".

Service Law - Parity in employment - Factors justifying differentiation - Depends on evaluations of duties and responsibilities - Besides quantity, quality also material - Courts not suited to evaluate and compare on the basis of affidavits and pleadings - Matter should be left to the executive who should appoint an expert body for the purpose - Courts should respect such determination unless mala fides shown".
(emphasis supplied)

9. In the result the Hon'ble Supreme Court held that the matter regarding grant of pay scales should be left to the Executive who should appoint an Expert Body for the purpose and courts should not interfere.

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Similarly recently in the case of U.O.I. and Another Vs. P.V. Hariharan, 1997 SCC (L&S) Page 32, wherein the Hon'ble Supreme Court had observed as follows:-

Pay scale - Interrelation if any with classification of posts - Held, there was no such interrelation - Post of Tool Room Assistant in Integrated Fisheries Project of the Fisheries Department place in the pay scale of Rs.800-1150 on the recommendation of the IVth Pay Commission, even though mentioned under Group 'C' in the notification under R.6 of CCS (CCA) Rules classifying various posts mentioned under various groups, its incumbents, held, not entitled to a higher pay scale - CCS (CCA) Rules, 1965, R.6".

10. In this case the Hon'ble Supreme Court had again emphasised that the grant of pay scale is not the function of the Tribunal. The Hon'ble Supreme Court had repeatedly stated that the fixation of pay scale is not the prerogative of the Tribunal or Courts. It is the Expert Body who has to decide the same. Besides that, as submitted by Shri P.H. Ramchandani, learned counsel for the respondents, the nature of the job of the Interpreters attached in the Ministry of External Affairs is quite different because being an Interpreter, they have to spontaneously translate and then interpret it to the person concerned whereas job of the Translators in the Indian Navy is to translate Technical Documents. The work which is being done by the Translators in the Indian Navy is that they can take the assistance of Books and Dictionaries since they are not required to translate the work spontaneously and the qualification as per the chart given by the applicants itself shows that there is a significant difference with regard to the qualifications, as prescribed in the Recruitment Rules of both the cadres and that is why the 5th

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Central Pay Commission had also observed that the parity sought by the Russian Language Translators-cum-Interpreters in Indian Navy with the Interpreters' cadre in the Ministry of External Affairs is not founded on similarity in recruitment qualifications and nature of duties and since the nature of duties and recruitment qualifications differ, so we find that the claim of the applicants for grant of pay scales has no merits.

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11. In view of the above, we do not find any merit in the OA and the same is dismissed. No costs.

Shanta
(Mrs. Shanta Shastri)
Member(A)

Kuldip Singh
(Kuldip Singh)
Member(J)

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