

Central Administrative Tribunal
Principal Bench, N. Delhi

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O.A. No. 654/95

New Delhi, this the 7th Day of April, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

1. M.C. Anand,
S/o Shri M.C. Narasimchachar
Aged 50 years
R/o C-401, Curzon Road M.S. Apts.,
Kasturba Gandhi Marg,
New Delhi.
2. Kulbir Singh Gadhoke
S/o Beant Singh
Aged 55 years,
R/o C2/99 West Enclave,
Pitampura,
New Delhi.
3. Karavadi Prasada Rao
S/o Late Shri Karavadi Gopal Rao,
Aged 53 years.
R/o 678 Sector IX R.K. Furam,
New Delhi.

Applicants

(By Shri N. Kaushik, Advocate)

Versus

1. Union of India through
The Secretary,
Defence Production & Supplies,
Ministry of Defence, Room No. 136,
South Block, New Delhi-110 001.
2. Director General of Quality Assurance,
Ministry of Defence,
Room No. 234, South Block,
New Delhi- 110 011.

Respondents

(By none).

Judgement (Oral)

Hon'ble Shri J.P. Sharma, Member (J)

The applicants are working as Junior Scientific Officer (J.S.O.) in the office of Defence Production & Supplies and D.G.Q.A. under Ministry of Defence. The applicants have

raised an issue that the scale of pay of J.S.O. before acceptance of the recommendation of 4th Pay Commission was 650-1200 and that of Foreman was 840-1040/-. The 4th Pay Commission on the basis of replacement of scales of pay has placed the J.S.O. in the pay scale of 2000-3500 and Foreman in the pay scale of 2375-3500 whereby the maximum scale of both the posts i.e. J.S.O. and Foreman is the same while the minimum of the scale of Foreman is higher than the J.S.O. i.e. Rs. 2375/-. By this it is contended that the Foreman will take 13 years to reach the maximum while J.S.O. will take more than this i.e. about 20 years to reach the maximum and this^{is} a grave anomaly particularly with the recruitment rules for the post provide that the post of Foreman is a feeder post for promotion to the post of J.S.O. We have gone through the recruitment rules for the post of J.S.O. annexed with the Original Application. These recruitment rules are notified in February 2, 1982 at a time when the recommendation of 3rd Pay Commission for various scales of pay were in force. At that time also the scale of Foreman was higher at the initial stage than the scale of J.S.O.

2. The learned counsel for the applicant Shri N.Kaushik has emphatically, strenuously and fervently argued that a grave injustice and irreparable loss has been caused

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to the applicants with respect to the scales of pay having not been revised inspite of the representation made by the applicant and the recommendation of Sub-Committee of J.C.M. that the scales of J.S.O. should be 2200-4000 instead of 2000-3500.

3. It is well-known fact that 5th Pay Commission is seized of the matter for revision of the scales of pay of Central Government employees including the present incumbents who are applicants in this case. The cardinal principle of jurisprudence is that two parallel bodies cannot judicially review the same matter, one administratively and other judicially to redress the grievance projected either by individual or by association or by the department. In this case the applicants have come before us for a judicial review to redress their grievance. The department or association or suo-moto the 5th Pay Commission shall consider the grievance of the applicants and during the course of the arguments, the learned counsel has conceded that the representation has also been forwarded to the 5th Pay Commission in that light.

4. In view of this and following the ratio laid down in the case of State of U.P. V/s. J.P. Chaurasia reported in AIR, 1990 SC page 190, the court or the tribunal should not tinker when the Commission has already seized of the matter. It is also because of the fact that the Union of India has various organizations under it and they have to comparatively assess the fixation of pay in the various discipline under its

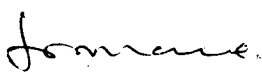
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varied organizations. The Tribunal cannot go into that aspect in much detail at this stage, it would have been another matter had the 5th Pay Commission not ceased of the matter but the report of the 5th Pay Commission is likely to be submitted to the Govt. within a year or so. The interim relief has already been allowed to all the Central Govt. employees during the pendency of the recommendation of the 5th Pay Commission.

5. In view of the facts and circumstances, we do not find a prima-facie case to admit this application at this stage and reject it in limini with the liberty to the applicants that they may assail their grievance, if survives, after the recommendation of the 5th Pay Commission. No costs.


(B.K. SIN H)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J) -

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