

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.208/1997

New Delhi, this the 24th day of February, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

Shri J.R.Chobedar
s/o late Shri Mohan Lal
r/o 67/12, Sector-1
Pushpa Vihar
New Delhi - 110 017.

... Applicant

(By Advocate: Sh. G.D.Gupta, Senior Counsel with Sh.
S.K. Gupta)

Versus

1. Union of India through
The Secretary to the Government of India
Ministry of Home Affairs
North Block
New Delhi - 110 001.

2. The Director General
Border Security Force
Block No.3, C.G.O.Complex
Lodi Road
New Delhi - 110 003.

3. Deputy Director (Accounts)
Pay & Accounts Division
Directorate General, BSF
Pushpa Bhawan
Madangir
New Delhi - 110 062.

... Respondents

(By Advocate: Sh. K.C.D.Gangwani)

O R D E R

Justice V.S. Aggarwal:-

Fundamental Rule 9(4) explains what is meant by a cadre: it means in effect the strength of an establishment or service (later amended to include a part of a service) sanctioned as a separate unit.

2. Some of the relevant facts are that appellant is working as a Joint Assistant Director (redesignated as Accounts Officer) in the Border Security Force) in the pay scale of Rs.2375-3500. The

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Border Security Force is a paramilitary force. It is a statutory body established by the Border Security Force Act, 1968. They have framed Border Security Force Rules, 1969. Applicant is holding the post of Joint Assistant Director (Accounts Officer) and is a civilian employee holding a civil post. By the present O.A., he has challenged the inaction on the part of the respondents in not prescribing the scale of pay for various posts like that of Senior Accountant, Junior Accounts Officer and Accounts Officer of Pay and Accounts Division of the Border Security Force (for short the PAD of BSF) at par with the scales of pay attached to the corresponding posts of other Audit and Accounts Departments of the Government of India. He has further complained of inaction on the part of the respondents in not creating 80% of posts in the PAD of BSF for being granted the higher pay scale on the same lines as has been done for the corresponding posts in various other Pay & Accounts Departments of the Government of India.

3. It has been pointed out that the Border Security Force was established with effect from 1.12.1965 in order to safeguard the borders of the country. The payments to the Officers of the Force were at that time made by the Comptroller & Auditor General of India/Accountant Generals of various States. As far as payment to non-gazetted officers and payments like the contingent payments were concerned, the same were drawn from the Central Treasuries by presenting bills. Due to passage of time, it was felt that this system was not efficient

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because of the mobility of the Border Security Force. Drawal of money from the treasury in such a situation took a lot of time which adversely affected the mobility of the force. In order to overcome this situation, separate PAD of BSF was established w.e.f. 1.7.1967. A copy of the order passed by the Ministry of Home Affairs on 17.5.1967 establishing a centralised Payment and Accounting Procedure in the Border Security Force is annexed at Annexure-A-1. Aforesaid order, it is pointed out was issued in consultation with the Comptroller and Auditor General of India and the Ministry of Finance.

4. The newly created PAD of BSF was initially manned by the officers and staff of the Comptroller and Auditor General of India as also various other Audit & Accounts departments like the Controller of Defence Accounts etc. In the year 1974, the Border Security Force promulgated its own recruitment rules styled as Directorate General Border Security Force Recruitment Rules, 1974. The same were issued under proviso to Article 309 of the Constitution of India and a copy thereof is annexed at Annexure A-2.

5. Applicant has placed reliance on para 11.38 of the recommendations of the Fourth Central Pay Commission at Annexure A-5 which has inter alia, recommended as under:

"11.38. We have considered the matter. There has all along been parity between the staff in the IA & AD and accounts staff of other departments, which has been disturbed by restructuring IA & AD into two separate cadres viz.,

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audit cadre and accounts and establishment cadre and giving higher pay scales to a major portion of staff on the audit side. The audit and accounts functions are complementary to each other and are generally performed in many government offices in an integrated manner which is necessary for their effective functioning. The staff in these offices perform functions of internal check and audit suited to the requirements of each organisation which are equally important. There is direct recruitment in the scale of Rs.330-560 in all the audit and accounts cadres through Staff Selection Commission/Railway Recruitment Boards from amongst university graduates. We are therefore of the view that there should be broad parity in the pay scales of the staff in IA&AD and other accounts organisations. Accordingly, we recommend that the posts in the pay scale of Rs.425-700 in the organised accounts cadres may be given the scale of Rs.1400-2600. In the Railways, this will apply to the posts of sub-head in both the ordinary and selection grades. We also recommend that this should be treated in future as a functional grade requiring promotion as per normal procedure. The proposed scale of Rs.2000-3200 of Section Officer may also be treated as a functional grade. With the proposed scales, there will be no selection grades for any of the posts. As regards the number of posts in the functional scales of Rs.1400-2600 and Rs.2000-3200, we note that about 53 per cent of the total posts of junior/senior auditor and 66 per cent of the total posts of ordinary and selection grade of Section Officer in IA&AD are in the respective higher scales. Government may decide the number of posts to be placed in the scales of (i) Rs.1400-2600 and (ii) Rs.2000-3200 in the other organised accounts cadres taking this factor into consideration. All other accounts posts may be given the scales recommended in chapter 8."

Based on the aforesaid recommendations of the Fourth Central Pay Commission, the pay scales of the PAD of BSF and other organised accounts departments were revised as under:-

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"STATEMENT SHOWING COMPERATIVE PAY SCALES OF
PAD BSF AND OF OTHER ORGANISED ACCOUNTS DEPTT."

| S. No. | RANK | PAY SCALES W.E.F. 01.01.86 | | PAY SCALES W.E.F. 01.04.87 | |
|-----------|-----------------------|---------------------------------|----------------------------------|-------------------------------|---|
| | | (A) PAD BSF | (B) OTHER ORGANISED DEPTT. | (C) PAD BSF | (D) OTHER ORGANISED DEPTT. |
| 1. | CLERK | Rs.950-20-1150- EB-25-1500 | Rs.950-20-1150-EB- 25-1500 | SAME AS COLUMN 'A' | SAME AS COLUMN 'B' |
| 2. | JR. ACCOUNTANT | Rs.1200-90-1560- EB-40-2040 | Rs.1200-90-1560-EB- 40-2040 | SAME AS COLUMN 'A' | Rs.1200-30-1560-EB -40-2040 FOR 20% POSTS |
| 3. | SR. ACCOUNTANT | Rs.1400-40-1800 EB-50-2900 | Rs.1400-40-1800-EB- 50-2900 | SAME AS COLUMN 'A' | Rs.1400-40-1600- 50-2300-EB-60- 2600 FOR 80% POSTS |
| 4. | JR. ACCTTS OFFICER | Rs.1640-60-2600- EB-75-2900 | Rs.1640-60-2600-EB- 75-2900 | SAME AS COLUMN 'A' | Rs.1640-60-2600- EB-75-2900 FOR 20% POSTS Rs.2000-60-2900- EB-75-3200 FOR 80% POSTS IN AAOs GRADE |
| 5. | ACCOUNTS OFFICER | Rs.2375-75-3200- EB-100-3500 | Rs.2375-75-3200-EB- 100-3500 | SAME AS COLUMN 'A' | Rs.2975-75-3200- EB-100-3500 FOR 20% POSTS Rs.2200-75-2800- EB-100-4000 FOR 80% POSTS IN SR. AOs GRADE W.E.F. 01.04.92 |

PAY SCALES W.E.F. 01-01-96

| | | |
|-------------------------------|-------------------------|--|
| 1. CLERK | Rs.3050-75-3950-80-4590 | Rs.3050-75-3950-80-4590 |
| 2. JR. ACCOUNTANT | Rs.4000-100-6000 | Rs.4000-100-6000 FOR 20% POSTS |
| 3. SR. ACCOUNTANT | Rs.4500-125-7000 | Rs.5000-150-8000 FOR 80% POSTS |
| 4. JR. ACCOUNTS OFFICER | Rs.5500-175-9000 | Rs.5500-175-9000 FOR 20% POSTS Rs.6500-200-10500 FOR 80% POSTS IN AAOS GRADE |
| 5. ACCOUNTS OFFICER | Rs.7450-225-11500 | Rs.7500-250-12000 FOR 20% POSTS Rs.8000-275-13500 FOR 80% POSTS IN SR. AAOS GRADE" |

-6. The grievance of the applicant is that pertaining to the upgradation of 80% posts of Junior Assistant Directors (Accounts)/Accounts Officer in the PAD of BSF. "A representation on that behalf were submitted by the applicant to the Ministry on 24.8.1995.

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It was rejected on 30.8.1995 vide Annexure A-13. Since the memorandum did not contain any reasons a further representation had been made. It was rejected on 6.9.1995. The rejection had been supported by the following reasons:

"With reference to his application dated 30.8.1995, Shri J.R.Chobdar, JAD (Accounts) is informed that, Ministry of Finance did not agree to our proposal as they held that BSF Accounts Cadre is not an organised Accounts service."

7. On earlier occasion, when this matter came up before this Tribunal on 6.12.2000, the present application was allowed. It was directed:

"If one has regard to the aforesaid decisions cited by Shri Gupta, we find that the applicant has made good his claim contained in the OA. In the circumstances, the impugned Memorandum of 30.8.1995 at Annexure A-13, Memorandum of 6.9.1995 at Annexure A-15 as also Memorandum of 7.12.1995 at Annexure A-17 are quashed and set aside. We further hold that the pay scales of the various posts in the PAD of BSF are liable to be revised and brought on par with the scales of other organised Audit and Accounts services under the Government of India. Respondents are accordingly directed to upgrade 80% posts in PAD of BSF on lines with the Controller General of Defence Accounts (CGDA) cadre etc.

15. Based on the aforesaid directions, respondents will consider the claim of the applicant for grant of higher pay scale to 80% of the posts in the PAD of BSF provided he is found eligible. In case he is found eligible for being placed in the 80% of the posts, he will be entitled to all consequential benefits with effect from 1.4.1987.

16. Present OA in the circumstances is allowed in the aforesaid terms. Aforesaid directions shall be complied with by the respondents within a period of six months from the date of service of this order. No costs."

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8. Against the said order, the Union of India and Others preferred Civil Writ Petition No. 5599/2001. The Delhi High Court had set aside the order of this Tribunal and the matter was remanded holding:

"17. In a vital issue of this nature, the learned Tribunal was obligated to take into consideration the materials brought on record of the parties to the lis but also arrive at a definite finding as to whether the Pay and Accounts Division of BSF is an organized cadre or even under CAG or CGDA. This court in exercise of its jurisdiction under Article 226 of the Constitution of India only exercises the power of judicial review. All contentions relating to the service dispute must necessarily be addressed by the Tribunal itself at the first instance. Only in some rare cases where a grave injustice may be caused and in some cases having regard to the interest of justice, this court may determine such questions at the first instance. Furthermore, as notice hereinbefore, before us, the learned counsel for the parties referred to various documents which the learned Tribunal had no occasion to consider at all. We have purposely not referred thereto so that it may not be considered to be a conscious decision on our part either way.

18. In this view of the matter, we are of the opinion that the matter should be considered afresh by the learned Tribunal."

9. It is in this backdrop that the whole controversy has been re-argued basically on the question as to whether Pay and Accounts Division of the Border Security Force is an organised cadre or even under CAG or CGDA.

10. On behalf of the respondents, plea was raised that the claim of the applicant is barred by time. We have already in the preceding paragraphs referred to the facts that the applicant had

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represented. The representation had been rejected vide Memorandum of 30.8.1995 followed by another Memorandum of 6.9.1995. The present application has been filed on 6.12.1996. But the question of limitation will not arise because drawing of salary is a continuous cause. Even if a little more than one year expired from the rejection of the representation, the arrears if any can be given for a period of one year before filing of the application. In this regard, we are supported by the decision in the case of M.R.Gupta v. Union of India & Others, 1995(5) SCC 628

11. Reverting back to the controversy before us, at this stage, it is relevant to mention that respondents in the counter pleaded that in the audit stream of India Audit and Accounts Department, the posts have been placed in the following grades, namely:

"In audit stream of India Audit and Accounts Department, the posts have been placed in the following grades vide their No.A/2014/2/92/MFCGA/GFB/357 dated 31.3.1993.

Pay and Accounts Officer
(functional promotional) grade:

- | | | |
|-----------------------------|--------------------|-----|
| 1. Pay and Accounts Officer | Rs.2200-75-2800-EB | |
| (functional promotional) | -100-4000 | 80% |
| 2. Pay and Accounts Officer | Rs.2375-75-3200-EB | |
| | -100-3500 | 20% |
| 3. Asstt. Accounts Officer | Rs.2000-3200 | 80% |
| 4. Section Officer | Rs.1640-2900 | 20% |
| 5. Sr. Auditor | Rs.1400-2600 | 80% |
| 6. Auditor | Rs.1200-2040 | 20% |

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Whereas in Pay and Accounts Border Security Force, we have following posts:-

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| 1. JAD now Accounts Officer | Rs.2375-3500 |
| 2. JAO | Rs.1640-2900 |
| 3. Sr. Accountant | Rs.1400-2300 |
| 4. Jr. Accountant | Rs.1200-2040 |

5. It would thus be seen from the above that in Pay and Accounts Division of Border Security Force the grade of Pay and Accounts Officer (Functional Promotional grade) in the pay scale of Rs.2200-4000 is not available. The post of AAO in the pay scale of Rs.2000-3200 is not available. It is also added that the pay scale of Sr. Acctt. is of Rs.1400-2300, which is comparatively a lower scale than of Sr. Auditor as prevalent in Audit & Account of Constituted service which run from Rs.1400-2600. Promotion in the grade of Section Officer/JAO in the organised Accounts Cadre are being made after passing Subordinate Accounts Service examination, whereas in Pay and Accounts Division Border Security Force it does not exist, which is a major qualification for qualified Accountants in Organised Accounts Cadre. In Pay and Accounts Division Border Security Force it is made by Selection cum fitness."

12. Though Fundamental Rules as already referred to above defines 'cadre' but during the course of submissions neither of the counsel had brought to our notice any specific or precise definitions as to what is meant by 'organised cadre'. In the additional affidavit filed on behalf of the respondents, the respondents plead that 'organised cadre' has the following attributes:

- "a. The service has all the standard grades of pay, viz., Rs.8000-13500, Rs.10000-15200 and Rs.12000-16500 etc.
- b. 50% of the officers are through direct recruitments.
- c. All posts upto the pay scale of Rs.18400-22400 are filled through promotion from within the cadre.
- d. The highest post in cadre is above the pay scale of Rs.18400-22400."

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13. It appears, these attributes are being mentioned and taken from the cadre management of Group 'A' Central Service issued by the Government of India, Ministry of Personnel, Public Grievance and Pension, and under the heading, it has been mentioned:

"The expression "organised Group 'A' Civil Cadre" means a cadre which has all the following attributes, namely:- (i) the highest cadre post is not below the level of Rs.5900-6700 (ii) it has all the standard grades, namely, Rs.2200-4000, Rs.3000-4500, Rs.3700-5000/ Rs.4500-5700 and Rs.5900-6700 (iii) at least 50% of the vacancies in the Junior Time Scale (Rs.2200-4000) are required to be filled by direct recruitment and (iv) all vacancies above the Junior Time Scale and upto the Senior Administrative Grade (Rs.5900-6700) are filled by promotion from the next lower grade."

14. It is abundantly clear from the aforesaid that the said attribute pertains to Group 'A' Service/Cadre. The applicant does not belong to Group 'A' Service/Cadre and, therefore, the respondents cannot take advantage of the same.

15. Otherwise also, on behalf of respondents though stress was laid pertaining to certain scales which are not available in PAD of the BSF, in our opinion will not tantamount to hold that in the absence of the same it was ceased to be an organised cadre. If certain scales are missing that will not take the trait of the organised cadre, and therefore, this particular plea has simply to be stated to be rejected.

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16. On behalf of the respondents, it was further urged that passing of the Subordinate Accounts Service (SAS) examination is necessary in an organised cadre. In the present case, it is by way of promotion. We have no hesitation in rejecting the said plea because the question to be considered is if it is an organised cadre or not. The manner and method of promotion has nothing to do with a cadre being organised or not. If it has other traits that it is a cadre comprising of reasonable number of persons, they have specific rules in this regard and there is no other factor which prompts one to conclude that it is an unorganised cadre. We must hold that it is an 'organised cadre'.

17. As regards the contention about the percentage of deputation post in the post of Accounts Officer, we were informed that the same has been reduced from 66.67% to 33.33%. The deputation in respect of the post of Junior Accounts Officer and Senior Accountant has been kept as only as an alternative method, i.e., the method of deputation is to be resorted when the post cannot be filled by promotion. More than 50% posts in the entry grade are filled through direct recruitment. This shows that there is a regular hierarchy starting from lowest post of Clerk to Financial Adviser in PAD of BSF.

18. Similar question had been gone into by the Delhi High Court in the case of T.N.Natarajan & Ors. v. Union of India & Ors. in C.W.P.No.176/1979 dated 3.9.1980. The Delhi High Court while going into

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the said controversy, when a similar argument had been advanced, held it to be an organised cadre and the findings read:

"Mr. A.B. Saharya, the learned counsel for the petitioners, took great pains in going through the report of the Third Pay Commission as contained in Chapter 8. The only reason contained in the impugned orders for the non admissibility of the special pay to the petitioners is that they do not belong to "organised service" Group A. The counsel urges that there is no warrant for the respondents to so construe the recommendations of the Third Pay Commission as also the orders of the Government contained in the resolution dated May 1, 1974 and the sanction of the President contained in the memorandum dated August 20, 1975. The contention is that there is no basis to restrict the grant of the special pay only to those officers belonging to the Military Engineering Services comprising of three branches namely: Engineering Cadre, Surveyor of Work Cadre and Architects Cadre.

The first question for determination is whether the service to which the petitioners belong has been regularly constituted as Class I Service. By notification dated November 21, 1969, published in the Official Gazette on December 6, 1969, the President in exercise of the powers conferred by the proviso to Art. 309 of the Constitution, made rules regulating the methods of recruitment to Class I and Class II posts in the Military Engineering Services. The rules are called the Military Engineering Service (Administrative Cadre) Recruitment Rules, 1969.....

Article 309 provides for the enactment of rules and regulations relating to the recruitment and conditions of Govt. Servants. In regard to the Central Services, the authority is given to the Central Legislature. Under the proviso rules can be made by the President with regard to the Central Services. It is not obligatory to make rules of recruitment before a service is constituted and the posts filled. But the framing of the rules does suggest the constitution of a service and the creation of a cadre. The channel of promotion from the lower grade to the

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higher grade provided in the Recruitment Rules is a weighty circumstance in favour of holding the regular constitution of a cadre. Cadre means the strength of the service or part of service sanctioned as a separate unit."

19. In the absence of any other decision to the controversy in the hierarchy as it is in force after the decision of the Supreme Court in the case of L.Chandra Kumar v. Union of India & Ors., 1997 SCC (L&S) 577, we must follow the said Judgement. Therefore, it must be held that the applicant belongs to an organised cadre.

20. The only other controversy thereafter is as to whether the applicant is entitled to equal pay on the principle of 'equal pay for equal work'?

21. This question had been decided by this Tribunal. The said findings have not been set aside by the Delhi High Court. We deem it unnecessary to go into the same again because of the above said facts. For purposes of continuation of the matter, we take opportunity to reproduce the some of the precedents quoted in the earlier order. In the case of Randhir Singh v. Union of India and Others, 1982(1) SLR 756, the Supreme Court held:

"6. The counter-affidavit does not explain how the case of the drivers in the police force is different from that of the drivers in other departments and what special factors weighed in fixing a lower scale of pay for them. Apparently in the view of the respondents, the circumstances that persons belong to different departments of the Government is itself a sufficient circumstances to justify different scales of pay irrespective of the identity of their powers, duties and

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responsibilities. We cannot accept this view. If this view is to be stretched to its logical conclusion, the scales of pay of officers of the same rank in the Government of India may vary from department to department notwithstanding that their powers, duties and responsibilities are identical. We concede that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for Courts but we must hasten to say that where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. Of course, if officers of the same rank perform dissimilar functions and the powers, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same."

"9. There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If any thing, by reason of their investiture with the powers, functions and privileges of a police officer, their duties and responsibilities are more arduous. In answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of equal pay for equal work is not a principle which the Courts may recognise and act upon. We have shown that the answer is unsound. The clarification is irrational. We, therefore, allow the Writ Petition and direct the respondents to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be

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effective from 1st January, 1973, the date from which the recommendations of the Pay Commission were given effect."

22. It goes without saying that the officers working in PAD of BSF are doing equal work as that of officers of other Account Departments. Therefore, the cited decision is very much applicable.

23. Similarly in the case of Bhagwan Dass and Others v. State of Haryana and Others, AIR 1987 SC 2049, the Supreme Court held:

"11. With regard to the next contention viz. that the mode of recruitment of the petitioners is different from the mode of recruitment of respondents 2 to 6, we are afraid it is altogether without substance. The contention has been raised in the following terms (para 4(d) of the Counter-affidavit dated 6.1.1986 filed on behalf of respondents 1 to 13)>-

"It is absolutely incorrect that the petitioners are similarly placed as the employees under the Social Education Scheme as alleged. The latter are whole-time employees selected by the subordinate services Selection Board after competing with candidates from any part of the country. In the case of petitioners, normally the selection at best is limited to the candidates from the cluster of a few villages only. The contention made by the Petitioners has no justifiable basis." (Emphasis added).

We need not enter into the merits of the respective modes of selection. Assuming that the selection of the petitioners has been limited to the cluster of a few villages, whereas respondents 2 to 6 were selected by another mode wherein they had faced competition from candidates from all over the country, we need not examine the merits of these modes for the very good reason that once the nature and functions and the work are not shown to be dissimilar the fact that the recruitment was made in one way or the other would hardly be relevant from the point of view of "equal pay for equal work" doctrine. It was open to the State to resort to a

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selection process whereat candidates from all over the country might have competed if they so desired. If however they deliberately chose to limit the selection of the candidates from a cluster of a few villages it will not absolve the State from treating such candidates in a discriminatory manner to the disadvantage of the selectees once they are appointed, provided the work done by the candidates so selected is similar in nature. It was perhaps considered advantageous to make recruitment from the cluster of a few villages for the purposes of the Adult Education Scheme because the Supervisors appointed from that area would know the people of that area more intimately and would be in a better position to persuade them to take advantage of the Adult Education Scheme in order to make it a success. So also it was perhaps considered desirable to take recourse to this mode of recruitment of candidates because candidates from other parts of the country would have found it inconvenient and onerous to seek employment in such a Scheme where they would have to work amongst total strangers and it would have made it difficult for them to discharge their functions of persuading the villagers to avail of the Adult Education Scheme on account of that factor. So also they might not have been tempted to compete for these posts in view of the fact that the Scheme itself was for an uncertain duration and could have been discontinued at any time. Be that as it may, so long as the petitioners are doing work which is similar to the work performed by respondents 2 to 6 from the standpoint of 'equal work for equal pay' doctrine, the petitioners cannot be discriminated against in regard to pay scales. Whether equal work is put in by a candidate selected by a process whereat candidates from all parts of the country could have competed or whether they are selected by a process where candidates from only a cluster of a few villages could have completed (competed) is altogether irrelevant and immaterial, for the purposes of the applicability of 'equal work for equal pay' doctrine. A typist doing similar work as another typist cannot be denied equal pay on the ground that the process of selection was different inasmuch as ultimately the work done is similar and there is no rational ground to refuse equal pay for equal work. It is quite possible that if he had to compete with candidates from all over the country, he might or might not

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have been selected. It would be easier from him to be selected when the selection is limited to a cluster of a few villages. That however is altogether a different matter. It is possible that he might not have been selected at all if he had to compete against candidates from all over the country. But once he is selected, whether he is selected by one process or the other, he cannot be denied equal pay for equal work without violating the said doctrine. This plea raised by the respondents-State must also fail."

13. Lastly we have to deal with the contention that the Scheme is a temporary Scheme and the posts are sanctioned on an year to year basis having regard to the temporary nature of the Scheme. We are unable to comprehend how this factor can be invoked for violating 'equal pay for equal work' doctrine. Whether appointments are for temporary periods and the Schemes are temporary in nature is irrelevant once it is shown that the nature of the duties and functions discharged and the work done is similar and the doctrine of 'equal pay for equal work' is attracted. As regards the effect of the breaks given at the end of every six months, we will deal with this aspect shortly hereafter. That however is no ground for refusing the 'equal pay for equal work' doctrine. Be it realized that we are concerned with the 'equal work for equal pay' doctrine only within the parameters of the four grounds and the fact situation discussed hereinabove. We are not called upon, and we have no need or occasion to consider the applicability or otherwise of the said doctrine outside these parameters. For instance we are not required to express any opinion in the context of employment of similar nature under different employers, or in different cadres under the same or different employers. Nor are we concerned with questions required to be dealt with by authorities like the Pay Commissions such as equation of cadres or determination of parity-differential between different cadres or making assessment of work loads or qualitative differential based on relevant considerations and such other matters. We are concerned in the present matter with employees of the same employer doing same work of same nature discharged in the same department but appointed on a temporary basis instead of in a regular cadre on a regular basis. We have therefore decided the questions

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raised before us in the backdrop of facts of the present case. On the other dimensions of the doctrine we remain silent as there is no need or occasion to speak."

24 These decisions clearly show that principle of 'equal pay for equal work' is very much applicable in the facts of the present case.

25. Resultantly, we allow the present application. Holding that pay scales of various posts in the Accounts Cadre of the PAD of BSF are liable to be revised. Respondents should consider the upgradation of posts and for grant of higher pay scale of 80% of the posts, subject to eligibility, with consequential benefits. It is directed that the decision may be implemented preferably within six months from the date of receipt of a certified copy of this order. No costs.

(S.A. Singh)
Member (A)

(V.S. Aggarwal)
Chairman

/NSN/