

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 100/97

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T.A.R.O.

DATE OF DECISION 4-8-2000

(2)

Sh. Lakesh Kumar Sharma & OrsPetitioner:-

....Advocate for the
Petitioner(s)

Sh. Shyam Babu

VERSUS

UOI & Ors

....Respondent

Mrs. PK Gupta, learned counsel
through proxy counsel Sh. Anil
Singhal.

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, M(J)

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

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 100/97

New Delhi this the 4 th day of August, 2000

(3)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.A.T. Rizvi, Member(A).

1. Lakesh Kumar Sharma,
S/o Shri Gajraj Singh,
R/o A-59, Johri Enclave,
Delhi-Loni Border,
Ghaziabad (UP).
2. Mahavir Singh,
S/o late Shri Rattan Singh,
R/o 1/6539, Partap Gali,
Eastern Rohtas Nagar,
Delhi, Shahdara,
Delhi-32.
3. Madan Swarup,
S/o Shri Niranjan Sarup,
R/o B-351, DDA MIG Flats,
Loni Road, Delhi Shahdara,
Delhi-93.
4. Y.S. Rathi,
S/o Shri Sonnu Singh,
R/o E-73, Gagan Vihar,
Delhi-110094. Applicants.

(By Advocate Shri Shyam Babu)

Versus

Union of India through

1. The Secretary,
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi.
2. The Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
New Delhi. Respondents.

(By Advocate Shri Anil Singhal proxy for Mrs. P.K. Gupta)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants, who are working as Assistant Sub Inspectors/Wireless Technicians (WTs), are aggrieved by the order passed by the respondents dated 9.12.1996 (Annexure

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A-I). In this order, they have rejected the representation of applicant No.1, in which he had requested for extending the benefits of enhanced pay scale of Rs. 1600-2660.

2. The applicants have relied on the judgements of the Tribunal in **K. Joseph Vs. Union of India & Ors.** (OA 22/A&N/90-CAT - Calcutta Bench at Port Blair) dated 21.12.1990, which has been followed by the order in **K.R.Sreekumaran & Ors. Vs. Union of India & Ors.** (OA 20/A&N/91 - CAT Calcutta Bench at Port Blair) dated 1.7.1992 and in **K. Asokan & Ors. Vs. Union of India & Ors.** (OA 1224/94 - CAT Ernakulam Bench) dated 18.10.1994. Shri Shyam Babu, learned counsel for the applicants, has submitted that following these judgements, the applicants, who are doing the similar nature of jobs as W.Ts with the respondents should have been placed in the replacement pay scale of Rs. 1600-2660 from the pre-revised pay scale of Rs. 330-560 instead of the revised pay scale of Rs. 1320-2040 w.e.f. 1.1.1986. The grievance of the applicants is that this has not been done. Learned counsel has submitted that the duties, functions and responsibilities of the applicants are similar to the Assistant Sub Inspectors (Wireless Operators/Radio Operators) like the applicants before the Tribunal in OA 22/A&N/90 (Supra) and OA 20/A&N/91 (supra). He has also submitted that the applicants are also working under the same respondents, namely, Ministry of Home Affairs and, therefore, there is no reason why they should not be given the benefit of the aforesaid judgements as well as the judgement of the Ernakulam Bench (supra). According to the learned counsel, the applicants, who are JIOs-I/WTs have the same duties, functions and responsibilities as ASIs/Wireless

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Operators in the Delhi Police ~~and~~ to whom the higher pay scale of Rs. 1600-2660 has been granted w.e.f. 1.1.1986. He has, therefore, submitted that there is no reason why the respondents should not give the parity in pay scale to the applicants, as has been given to their counter-parts in the Delhi Police and extend the benefits of the aforesaid judgements to them.

3. The respondents in their reply have controverted the above averments. According to the respondents, there are different rules/regulations governing the employees of the Central Government and State/UT Governments and hence, the request of the applicants for extending the same pay scale to them, as given to the officers in other cadres, cannot be agreed. They have also stated that the applicants have been informed that the pay and allowances of the personnel of Intelligence Bureau (IB) are governed by the Central Government rules/regulations and hence, they cannot be equated with those granted to their counter-parts in the State Police. They have also submitted that the ASIs (WTs) in the other Central Police Organisations (CPOs), such as CRPF, BSF, CISF, ITBP, etc. are in receipt of the same pay scale as given to the applicants as JIOs/WTs, i.e. Rs. 1320-2040. They have, therefore, submitted that there is no difference in the pay and allowances of the applicants vis-a-vis their counter-parts in other CPOs and the applicants cannot claim any discrimination by comparing their pay scales with the employees of the State/UT Governments. Shri Anil Singhal, learned proxy counsel for the respondents has, therefore, submitted that there is no merit in this application as the personnel of IB which has its own cadre structure, have been granted the pay and

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allowances in accordance with the relevant Rules, which are also the same as have been given to similarly situated persons in other cadres in the Central Government who have also been placed in the pay scale of Rs.1320-2040. The respondents have, therefore, submitted that in the facts and circumstances of the case, the contention of the applicants that they should be given the pay parity with ASIs/WTs in the Delhi Police, cannot be accepted. Learned counsel has also relied on the recommendations contained in paragraph 70.64 of the 5th Pay Commission, in which it has been stated that the existing parity between the pay scales of the IB, CBI and the Delhi Police is misplaced and has no logical basis. He has, therefore, submitted that in the circumstances of the case that as the applicants are not similarly placed with personnel of the Delhi Police, the claim for grant of higher pay scale on par with the Delhi Police ASIs/WTs may be rejected.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. The main issue raised in this case is the question whether the applicants should be given equal pay to that of ASI/WT in the Delhi Police and Radio Operators in the Andaman and Nicobar Islands, which is stated to be equivalent to the post of ASI in the Delhi Police, or not. The learned counsel for the applicants has very vehemently contended that the duties, functions and responsibilities of the applicants are same as Radio Operators in the Andaman and Nicobar Islands Police Radio Organisations, who have been given the higher pay scale by Tribunal's orders in **K. Joseph's case and K.R. Sreekumaran's case (supra)**. He has

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appo submitted that similarly the judgement of the Ernakulam Bench of the Tribunal in OA 1228/94 (supra) is also applicable to the facts of this case who are also ASIs in the Lakshwadeep Police who have been granted the higher pay scale. The main reason why the respondents have rejected the claim of the applicants for pay parity is that the regulation of pay and allowances of the IB personnel are governed by the Central Government Rules and Regulations and in no circumstances it can be compared with those governing the pay and allowances of their counter-parts in the States/Union Territories. We find this submission given by the respondents, both reasonable and legal, particularly having regard to the recommendations of the Expert Committee/5th Central Pay Commission. The relevant recommendation of the 5th Central Pay Commission in this regard reads as follows:

"While considering the pay scales of the ranks of Inspector and below in Delhi Police, we have taken into account the pay scales of Police personnel in neighbouring states. Our view is that the existing parity between the scales of pay of IB, CBI and Delhi Police is misplaced and has no logical basis. Delhi Police is like any other State Police Force and has hardly anything in common with IB and CBI or with the Central Police Organisations.."

(Emphasis added)

6. It is clear from the above recommendations of the Expert Committee set up by the Central Government for revision of the pay scales that the very issue raised by the applicants in this case, namely, regarding parity with their counter-parts in the Delhi Police and other State Police Organisations is stated to be "misplaced" and, therefore, untenable. It is also settled law that in all such matters of pay revision, the Courts/Tribunal ought not to interfere unless there is a clear case of discrimination. (See the

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observations of the Hon'ble Supreme Court in **State of UP Vs. J.P. Chaurasia** (AIR 1989 SC 19), **Union of India and Anr.**

Vs. **P.V. Hariharan and Anr.** (1997 SCC(L&S) 838) and

Supreme Court Employees Welfare Association Vs. Union of India (AIR 1990 SC 334).

Although the learned counsel for the applicants has tried to argue that there was discrimination against the applicants because the respondents have denied them the pay parity with their counter-parts in the Delhi Police, etc, we are unable to agree with this contention. It is further relevant to note that the pay and allowances of the IB personnel, like the applicants are governed by a set of rules and regulations which are made by the Central Government. Merely because they are working under the same respondents, namely, the Ministry of Home Affairs, does not entitle them to pay parity with State/UT cadres like the Delhi Police. Having regard to the relevant facts, we are unable to hold that there is any invidious discrimination, as alleged by Shri Shyam Babu, learned counsel for the applicants. In the circumstances, the applicants cannot claim pay parity with other personnel who are not in the same category like them and as stated by the 5th Pay Commission, such parity in pay scales would be misplaced and, therefore, not warranted. We, therefore, find no good grounds justifying interference in the matter.

7. In the result, for the reasons given above, we find no merit in this application. The same is accordingly dismissed. No order as to costs.


(S.A.T. Rizvi)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)