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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

G.A. No. 237 of 1994

This 4th day of February, 1994

Hon'ble Mr. J.P. Sharma, Member (D)
Hon'ble Mr. B.K. Singh, Member (A)

1. Mrs. Vinay Sharma, CA
JGI Block
No. 36, Vikaspuri,
New Delhi.
2. Mrs. Jasbir Kaur, CA
B-47/11, & III
Fateh Nagar,
New Delhi.
3. Shri G.S. Srivastava, CA
165, Akash Kunj, Sector IX
Rohini, Delhi.
4. Shri A.D. Sharma, T.A.
Ar. No.6, Type-III
Sector II, Sadiq Nagar,
New Delhi.
5. Shri Narendra Dutt,
Pocket A-3, H. No. 63-C,
Kalkaji Extension,
New Delhi.
6. Shri J.K. Grover, A/Asstt.
3/16, Subhash Nagar,
New Delhi.
7. Shri V.K. Kaul,
Pocket A-3, H.No. 63-C
Kalkaji Extension,
New Delhi.

Applicants

By Advocate: Shri N. Safaya

VERSUS

1. Union of India, through
The Secretary,
Ministry of Civil Aviation & Tourism,
Sardar Patel Bhavan,
Parliament Street,
New Delhi.
2. The Director General,
Civil Aviation,
Opp. Safdarjung Airport,
New Delhi.

Respondents



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O R D E R

(By Hon'ble Mr. B.K. Singh, M(A))

This O.A. No. 237/94 has been filed under Section 19 of the CAT Act, 1985 claiming the pay-scale of Rs.1640-2900 from the respondents.

2. The applicants joined the Department of Civil Aviation, Ministry of Civil Aviation & Tourism. The applicants 1 to 3 were working as Communication Asstt.; applicant No.4 as Technical Asstt. and applicants 5 to 7 were working as Aerodrome Assistants.

3. By an Act of Parliament the National Airports Authority was created which came into being w.o.f. 1.6.1986. Whenever the Government creates an Authority or a Corporation, it divests itself of those functions and responsibilities which are entrusted to the Authority. The employees who are doing these functions are also transferred. These employees are known as transferred employees on deputation. They continue to be transferred employees on deputation till they get absorbed in the Authority. After absorption the employees become regular employees of the Authority and are governed by the same terms and conditions and draw the same pay-scales as are admissible to the employees of that Authority. Unless they opt and get absorbed in the Authority, they continue to be the employees of the State or Government and are not eligible to be governed by the service conditions of the Authority and are not entitled to draw the Authority's pay-scales.

4. With the enactment of the abovementioned Act, some of the activities of Civil Aviation Department, particularly the activities connected with the Directorate



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General of Civil Aviation and also Department of Civil Aviation were transferred to the National Airports Authority (NAA).

5. The applicants along with others were transferred on deputation to work with the NAA. The deputation was to last till their absorption in the NAA. It was also stipulated that those who do not want to opt for absorption in the NAA will not be absorbed. The applicants opted out of the absorption.

6. The NAA in the meanwhile issued a circular No.4/91 dated 1.10.90, marked as annexure 'A' of the paper-book introducing an intermediary non-functional scale of Rs.1640-60-2600-EB-75-2900 for Aerodrome Assistants/Technical Assistants/Communication Assistants and Senior Firemen to be effective from 1.10.90. This pay-scale was given to the employees of the NAA including those who had opted for absorption and were absorbed as regular employees of the NAA. The present applicants were not given this pay-scale. Aggrieved by this they have come upto the Tribunal to claim this pay-scale on the ground of 'equal pay for equal work'.

7. The facts not controverted in this application are that the NAA is an autonomous organisation and is not an attached or affiliated office of the Civil Aviation Department of the Ministry of Civil Aviation & Tourism. It is also admitted that the applicants fall in the category of those who have not opted for absorption. They are employees transferred ~~on~~ ^{on} deputation. If there was delay in their repatriation, it was not because of the NAA but because the Department of Civil Aviation was having some

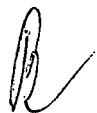
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problems in taking them back for residual work with them. When they were deputed on transfer on deputation, it was presumed that they will opt for absorption.


8. It is an established principle that a transferred deputationist is not entitled to the pay-scale admissible to the regular employees of a Corporation or Authority as long as he does not get absorbed. There is no notification under Section 14(2) of the CAT Act bringing the National Airport Authority under the jurisdiction of the Central Administrative Tribunal and as such this Court is not competent to issue any direction to the NAA to grant the applicants the same pay-scale which is admissible to their own employees or to the optees who have been absorbed. They form one group and the present applicants form a different group and they will be deemed to be government employees of the Department of Civil Aviation and as such they would be entitled to draw the pay which they got as a result of the recommendations of the Fourth Pay Commission as is being drawn by their compeers in the Department and nothing more and nothing less. This has been made abundantly clear by Annexure 'C' annexed with the application. It states that the matter was referred to the Integrated Finance Division of Civil Aviation Ministry who pointed out that since they are government employees, they are entitled to the normal scale of pay prescribed by the government for the posts held by them on the recommendations of the Fourth Pay Commission and as such their request for revision of their pay-scale on par with those of NAA cannot be acceded to.



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9. As stated above, the Ministry has already turned down their request for parity in their pay-scales with those of regular employees of NAA or optees since they are government employees and this Tribunal is not competent to issue any direction to the NAA for want of notification under Section 14(2) of the CAT Act. The application is dismissed in limine at the admission stage itself.


(B.W. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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