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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A No.1952 of 94

New Delhi, dated this 5th day of October 1994.

HON'BLE MR. J.P. SHARMA, MEMBER (J)

HON'BLE MR. B.K. SINGH, MEMBER (A)

1. Smt. Sneh Prabha Khanna.
2. Smt. Shobna Salwan.
3. Shri Vijay Sharma.
4. Sneh Lata Saxena.
5. Kiran Bala.
6. Neelam Dewan.
7. Vimlesh Pushkaraa,
8. Kiran Banati.
9. Saroj Dhall.
10. Shiksha Khurana.
11. Rajni Kala.
12. Gurdeep Kaur.
13. Savitra Bhutan.
14. Mohinder Singh.
15. Parti Pal Singh.
16. Jitender Singh.
17. Brijdeep Singh.
18. Sarita Bhatia.
19. Manjula Tigga.
20. Kusum Lata.
21. D.V. Sharma.
22. Om Prakash Arora.
23. Naresh Kumar.
24. Shobha Johari.
25. Jai Singh.
ADP, Centtal Ordinance Depot
Delhi Cantt., New Delhi.

.. Applicants.

By Advocate: Shri Krishnand Pandey with
Shri Amrender Sharan.

Versus

1. Secretary,
Ministry of Defence,
South Block,
Government of India,
New Delhi-110 001.
 2. Director General of Ordinance Services,
Sena Bhawan,
New Delhi.
 3. Commandant,
Central Ordinance Depot,
Delhi Cantt.,
New Delhi.
 4. Defence Financial Advisor,
Sena Bhawan,
New Delhi.
 5. Secretary,
Ministry of Finance,
Central Secretariat,
North Block,
New Delhi.
- ... Respondents.

By Advocate: None.

O R D E R

Hon'ble Mr. B.K. Singh.

This OA No.1952/94 with Miscellaneous Petition No.3327/94 has been filed against letter dated 8th August 1991 and letter No.66139/ADP/OS dated 22.2.93 re-designating the post of Key Punch Operator as Data Entry Operator Grade-A and revising the pay scale from 950-1500 to 1150-1500, w.e.f. 11.9.1989.

2. The admitted facts of the case are that the applicants were initially in the pay scale of Rs.260-400, who got their pay scale replaced to 950-1500 with effect from 1.1.1986, as a result of the recommendation of the Fourth Pay Commission, which has been annexed and filed with the OA as Annexure-I. The list of revised pay scale is marked as Annexure-III of the Paper Book.

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3. In order to remove the anomaly in the fixation of Pay in various departments of Government of India, a Committee headed by Dr. N. Seshangiri, Additional Secretary, Department of Electronics & Director General, NIC was set up. A copy of the report of Dr. N. Seshangiri is marked as Annexure-IV of the paper book. The applicants claimed that the nature of the work performed by them is similar to those being performed by the employees of the Registrar of the Census Deptt.

General's Office, who got the pay scale of 1350-2200 on the basis of the judgement delivered by the Central Administrative Tribunal. The applicants claimed parity of pay scale. They have also stated that even the Key Punch Operators in the Railways also have been allowed the pay scale of 1350-2200 with effect from 1.1.1986 and denial of this pay scale to them amounts to violation of Article 14 and 16 of the Constitution.

4. The relief sought is a ~~xxxxxxxxxxxx~~ direction to respondents to allow them the pay scale of 1150-1500 with effect from 1.1.1986 instead of from 11.9.1989 at par with the employees of other Government Departments.

5. We have heard the learned counsel Shri Krishnanand Pandey with Shri Amrender Sharan and perused the record of the case.

6. The applicants got the pay scale of 950-1500 with effect from 1.1.1986 as per the recommendation of the Fourth Pay Commission and as a result of the anomaly Committee report headed by Dr. N. Seshangiri, it is admitted that the pay scale got revised to 1150-1500 with effect from 11.9.89. The classification of posts, declaration of equivalence of one category of post with those of others, their amalgamation

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etc. are based on the recommendation of the Expert Bodies like those of the Pay Commission who go in depth about the content and quality of work performed by each class of employees. It is only on the basis of work content and quality of work^{that} amalgamation and revision in pay scales take place. The suggestion of the Expert Bodies cannot be treated lightly by the Courts and Tribunals. It is admitted by the applicant that the Fourth Pay Commission had recommended a pay scale of 950-1500 for the Key Punch Operators in the ADC (CDD Delhi Cantt.) and^{it} was only subsequent that a Committee headed by Dr. Seshangiri was appointed, which re-designated the Key Punch Operators as Data Entry Operator Grade-A and also revised the pay scales from 950-1500 to 1150-1500. This pay fixation was allowed to the existing incumbents under FR 23 and FR 22 (1) (a) (ii) and the special pay was withdrawn as a result of the removal of the anomaly in the pay scale. This order was issued vide letter No. 65139/ADP/US dated 22.2.1993, which is under challenge in this OA.

7. The matters in this OA fall strictly in^{with} the domain of the Executive, as has been held by the Hon'ble Supreme Court in the case of Umeshchand V/s. ONGC and others, AIR 1989 SC 29 followed in a catena judgements. The Hon'ble Supreme Court has held that if the classification is based on rational and reasonable grounds, it is not violative of Article 14 and 16, as is alleged by the applicants in the present OA. The classification has to be done by the Government without any interference from Courts. The policy decision taken by the Government of India on the basis of the recommendation of the Fourth

Pay Commission was further modified as a result of the anomaly removal Committee headed by Dr. N. Seshangiri and the orders under challenge have been issued in consultation with the Ministry of Finance and communicated by a Presidential order over the signature of DS (Defence) vide letter No.66139/ADP/DS dated 22.2.1993 revising the pay scale from 950-1500 to 1150-1500 and changing designation of the Key Punch Operator as Data Entry Operator Grade-A, giving higher starting pay to the new incumbents and re-fixing the pay scales of the present incumbents under FR 23 and FR 22(1)(a)(ii) and withdrawing special pay with the revision of the pay scale. This is also in conformity with the recommendation of the Fourth Pay Commission. When the pay hike was given, the special pay in a large number of cases was withdrawn.

8. The date for implementation of the new pay scales and re-fixation of pay under FR 23 and FR 22 1 (1) (ii) in case of existing incumbents, etc. has been made effective from 11.9.1989.

9. The Hon'ble Supreme Court in ^a catena judgements has held that the Courts or Tribunal should avoid tinkering with ~~the~~ recommendations of the expert bodies like Pay Commission, specially in matters of classification, changing of designation, fixation of pay, etc. If classification is reasonable, there is no infringement of the Fundamental Rights as enshrined under Article 14 and 16 of the Constitution.


10. Government is fully competent to make and set apart the classes according to the needs and exigencies of the Society and as suggested by Expert Bodies like Pay Commission,

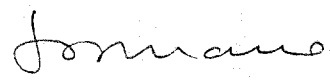
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who go in depth regarding the work content and quality of work performed by various class^{es} of government employees. It is their job to fix and raise pay scales taking into consideration of ^{their} duties and responsibilities, their work content and quality of work. The only requirement is that this classification should not be arbitrary, artificial and evasive. It must be rational and it must not only be based on some quality or characteristics, which are to be found in all the persons grouped together and not in others who are left out. But those qualities or characteristics must have reasonable relation with the object proposed to be achieved. In order to pass the test, 2 conditions must be fulfilled viz. i) classification must be founded on an intelligible differentia, which distinguishes those that are grouped together from others and (ii) that differentia must ^{have} rational relation to the object sought to be achieved.

11. We do not find any arbitrariness either in classification or in re-designation of the post of Key Punch Operator to Data Entry Operator Grade-A. If the applicants have any grievances in regard to their pay scale or in regard to change of their designation from Key Punch Operator to Data Entry Operator Grade-A, they should approach the Fifth Pay Commission, which is already seized with matters regarding pay fixation based on work content, pay hike admissible to various categories of employees, replacement scales on the basis of present scale taking into consideration ^{to rationalise} DA, inflation, etc. and the applicants are free to approach Fifth Pay Commission

collectively through their Union or through the Ministry of Defence under whom they are working currently. We do not find any merit in the application and the same is dismissed in limine with aforesaid observations at the admission stage itself.


(B.K. SINGH,
MEMBER (A))


(J.P. SHARMA)
MEMBER (J)

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