

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(12)

O.A No. 1436/2000
T.A No.

Date of Decision 1-10-2001

S.K. Rattan

..Petitioner

Sh. Deepak Verma

..Advocate for the Petitioner(s)

Versus

UOI & Ors

..Respondent

Shri Mohan Singh

..Advocate for the Respondents

Coram: -

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, 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)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

O.A. 1436/2000

New Delhi this the 1st day of October, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri Govindan S. Tampi, Member(A).

S.K. Rattan,
S/o late Shri M.R. Rattan,
R/o Flat No. 184, Arunodaya Apartments,
Vikaspuri, New Delhi. ... Applicant.

(By Advocate Shri Deepak Verma)

Versus

Union of India through

1. The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Secretary,
Department of Personnel & Training
(DOP&T), North Block,
New Delhi.
3. The Secretary,
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.
4. The Director,
National Crime Records Bureau (NCRB),
East Block 7,
R.K. Puram, New Delhi. ... Respondents.

(By Advocate Shri Mohar Singh)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

The applicant has prayed for a direction to the respondents to re-fix his pay in the correct pay scale of Rs.4100-5300 (pre-revised) applicable to Joint Assistant Director (JAD)/Supdt. of Police (SP) w.e.f. 24.2.1997 with all consequential benefits.

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2. According to the applicant, the post of JAD/SP in the office of Respondent 4, i.e. National Crime Records Bureau (NCRB), which is a Central Police Organisation, was having a higher pay scale, that is, Rs.1200-1700 which was better than the pay scale applicable to the SP in the Central Bureau of Investigation (CBI) or Commandants in other Central Police Organisations (BSF/CRPF) whose pay scale was Rs.1100-1600 plus special pay of Rs.100/- in some cases. The applicant was transferred from Data Section of Co-ordination Division of CBI to NCRB by order dated 12.4.1988. The applicant has stated that he was in the pay scale of Rs.2200-4000. He has submitted that on his promotion as JAD in NCRB, he still carried out the same work, duties and responsibilities equivalent to the rank of SP, Data Section of Co-ordination Division of CBI but he has been denied the revised pay scale applicable to SP in CBI. The applicant has retired from service on 3.2.2000 and has impugned the order dated 2.8.1999 in which the respondents have rejected his representation dated 11.5.1999 regarding parity of pay scale with SP in CBI. Learned counsel for the applicant has relied on the judgements of the Supreme Court in Harsaran Singh Vs. State of Punjab (1984(2) SLR 385), Employees of Tannery and Footwear Corporation of India Ltd. and Anr. Vs. Union of India & Ors. (1991(2) SLR 131), Jaipal and Ors. Vs. State of Haryana (1988(2) SLR 710) and the Tribunal in All India ESI Corporation Employees Federation through its Secretary General and Anr. Vs. Director General, ESI Corporation and Anr.

B.

(AISLJ 2000 (1)(CAT) 139), Babu Ram Vs. State of Haryana (2001 (1) ATJ 468) and also the judgement of the Punjab and Haryana High Court in Kirpal Jeet Vs. The State of Punjab & Anr. (1987(4) SLR 594). He has submitted that once the respondents have equated the pay scale of certain posts with the other posts, it is not open to them to discriminate against the applicant vis-a-vis the post of SP in CBI. He has, therefore, contended that the post of JAD in NCRB must continue to have parity in pay scale of SPs of CPOs/CBI. He has pointed out that the Data Section of Co-ordination Division of CBI has been transferred to NCRB in public interest and the applicant has continued to do the same duties and responsibility and, therefore, cannot be denied parity in pay scale.

3. We have seen the reply filed by the respondents and heard Shri Mohar Singh, learned counsel. The respondents have controverted the above submissions of the applicant. They have submitted that the NCRB was created on 11.3.1986 when the recommendations of the National Police Commission were accepted. This was created as an attached office of the Ministry of Home Affairs and four units already in existence as part of the various Central Police Organisations were merged in the NCRB, including Data Section of the Co-ordination Division of CBI. They have submitted that in pursuance of the Govt. of India resolution, the administrative control of Data Section of the Co-ordination Division of CBI dealing with Inter-State Crime Records was transferred to NCRB vide order dated 11.11.1987. It is seen from this order

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that the President had sanctioned transfer of the administrative control of the Data Section of the Co-ordination Division of CBI along with the following ten posts with staff and office furniture, etc. to NCRB. According to the respondents, the Supdt. of Police in CBI and JAD in NCRB are two different services and are governed by separate Recruitment Rules, seniority list, promotion, etc. Their controlling authorities are also different, namely, CBI and NCRB, respectively. They have, therefore, submitted that there is no question of equation of pay scale in these two posts which is a matter essentially for the expert bodies, like the Pay Commission and thereafter, for the Government to consider whether the recommendations should be accepted or not, Shri Mohar Singh, learned counsel, has relied on the judgement of the Supreme Court in Garhwal Jal Sansthan Karamchari Union and Anr. Vs. State of U.P. & Ors. (JT 1997(4) SC 206). He has also relied on the judgement of the Tribunal in SISI's Skilled Workers Grade-I Welfare Assn. Vs. Union of India & Ors. (OA 458/2000), decided on 27.9.2000 (copy placed on record). Learned counsel has submitted that in the circumstances of the case, the applicant cannot be granted parity in pay scales, as claimed by him as the relevant factors, like the nature of duties, functions, responsibilities, powers exercised by the concerned person holding the post, mode of recruitment, promotion and qualification, etc. have all to be kept in view while deciding the question of equity of pay. He has stressed that the applicant's pay as DSP was revised in the pay scale of Rs.2200-4000 by the CBI at par with the DSPs in

Yes/

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the CBI, not merely because the applicant came on transfer along with the post to NCRB from CBI but for the reason that during the period of 1986 he was on the strength of CBI as DSP on the crucial date, i.e. 1.1. 1986. He has ~~also~~^{also} drawn our attention to the averments made in the reply that NCRB is only an attached office of the Ministry of Home Affairs and not a Central Police Organisation. He has also stated that the duties, functions and responsibilities of officers in NCRB are quite different from those performed by the Central Police Organisations. In the circumstances of the case, learned counsel has submitted that the applicant cannot compare himself with those officers who are in CBI cadre which is a police organisation. He has submitted that while the CBI is engaged in investigations of cases, the work of staff in NCRB is one of keeping the records. He has, therefore, submitted that the applicant cannot claim pay parity with the SP in CBI and has prayed that the O.A. may be dismissed.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties and also the judgements relied upon by them.

5. It is seen that by the Presidential order dated 11.11.1987, ten posts in the Data Section of Coordination Division of the CBI dealing with Inter-state Crime Records, together with the staff have been transferred to the NCRB, along with office furniture, records, etc. By Notification GSR 265 dated 5.7.2000 of

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the Ministry of Home Affairs, under the proviso to Article 309 of the Constitution of India, Joint Assistant Director Recruitment Rules of 2000, have been framed with respect to the post of JAD which is in the pay scale of Rs.10000-15200. It is, therefore, seen that the post of JAD in NCRB is governed by separate Recruitment Rules which are quite different from the post of SP in CBI. The relevant factors as mentioned by the respondents which have been noted with respect to the two posts show that the duties, responsibilities and functions, recruitment, promotion, etc. are governed by separate Recruitment Rules. The Supreme Court in a catena of judgements has held that the principle of equal pay for equal work depends on a number of factors, some of which have already been referred to above and it is for the administration primarily to decide the question whether two posts carry the same pay scale based on the relevant factors. In the present case, one of the contentions of the applicant's counsel is that earlier the applicant's pay was at par with the pay of staff in CBI before the implementation of the recommendations of the 4th Pay Commission. It is relevant to note that the NCRB is only an attached office of the Ministry of Home Affairs and has not been treated as a Central Police Organisation. In the impugned Memo dated 2.8.1999, the respondents have while rejecting the applicant's representation dated 11.5.1999 regarding grant of pre-revised pay scale of Rs.4100-5300 to him at par with Supdt. of Police in CBI have stated as follows:

"The General principle is that when work is transferred alongwith staff from one Govt. Office

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to another Govt. Office, no terms are required to be offered to the transferees and they will cease to be the employees of the former office/organisations. They have to look forward for their career prospects in the new organisation".

6. The above order is in terms of the office order issued by the respondents dated 11.11.1987 which shows that the posts along with the records and furniture, have been transferred to the NCRB. No infirmity is, therefore, seen in the impugned order to justify any interference in the matter.

7. In the facts and circumstances of the case, the contention of the learned counsel for the applicant that he is doing same or similar duties and responsibilities as are being discharged by the officers holding the posts of SP in CBI, cannot be accepted. Merely because the applicant's pay was on par with other officers in CBI at an earlier date, cannot also assist him in giving the parity in pay scale, especially after he and his post have been transferred by an executive order of the President to another organisation, namely, the NCRB. In this view of the matter, the judgements relied upon by the learned counsel for the applicant will not assist him because from the documents placed on record, we are unable to agree with the contentions of the applicant that the SPs in CBI are discharging identical or similar nature of duties or having ^{the} same responsibilities, let alone having the same Recruitment Rules. In the above circumstances, once the applicant along with his post has been transferred to NCRB, his claim for parity in pay scale with that of SPs in CBI cannot, therefore, be accepted.

Ys-

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It is settled law that unless the two sets of employees are similarly situated and discharge similar duties, the claim for equal pay for equal work cannot be agreed to. (See. State of M.P. & Anr. Vs. Pramod Kumar Bhartiya & Ors. (JT 1992(5)SC 683), State of West Bengal Vs. Harinarayan Bhowal (1994(27) ATC 524) and Union of India & Anr. Vs. P.V. Hariharan and Anr. (1997 SCC (L&S) 838).

8. In the result, for the reasons given above, we find no merit in this application. The O.A. accordingly fails and it is dismissed. No order as to costs.

(Govindan S. Tampi)
Member(A)

'SRD'

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)