

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1835/2000

New Delhi, this the 16th day of July, 2003Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

1. The Indian Ordnance Factories Gazetted Officers Association, through its General Secretary Shri F.B. Singh
JWM/SAF, Kanpur
c/o HIG-8, B Block, Panki
Kanpur-208020
 2. Shri F.B. Singh
Working as Junior Works Manager
Ordnance Factory
Muradnagar, U.P.
- .. Applicants

(Shri S.K. Gupta, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Defence
South Block, New Delhi
 2. Director General-cum-Chairman
Ordnance Factory Board
Ayudh Bhawan, Ministry of Defence
10-A, Shaheed Khudiram Bose Road
Calcutta
 3. Secretary
Ministry of Finance
Department of Expenditure
North Block, New Delhi
- .. Respondents

(Shri V.S.R. Krishna, Advocate)

ORDER

Shri S.K. Naik

The Indian Ordnance Factories Gazetted Officers Association, through its General Secretary Shri F.B. Singh and Shri F.B. Singh himself in his individual capacity have filed this OA challenging the order (Annexure A/1) dated 7.9.1999 conveying the decision of the Ministry of Finance, Department of Expenditure (Implementation Cell) who did not find it feasible to agree to the proposal of the Ministry of Defence for the grant of higher pay scale in view of the fact that the 5th Central Pay Commission, after taking into account the

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various factors specifically recommended the pay scale of Rs.7450-11500 for the post of Junior Works Manager (JWM). When the matter came up for consideration before the Division Bench of this Tribunal on the 6th of February, 2000, the matter was disposed of with an order as under:

"5. In the result we dispose of this O.A. calling upon respondents to take action to refer the case of applicants also to the Arbitrator, who in turn is requested to conclude his deliberation and declare his Award as expeditiously as possible and preferably within six months from the date of receipt of a copy of this order. The Arbitrator is also requested to consider any prayer made by applicants for a personal hearing before giving his Award."

2. However, the respondents came back to the Tribunal with a Review Application (No.276/2002) filed on 7th of August, 2002, in which it was pleaded that there has been apparent error on the face of the record in the order of the Tribunal. Reference to Arbitration pertained to disputes and/of non-gazetted staff under JCM and the applicants being Group 'B' gazetted, their case could not be so referred. After careful consideration of the submissions made by the Department and after hearing the arguments on rebuttal advanced by the applicants, the Tribunal felt that the dispute relating to lower value of incremental rate in S-10 and S-13 i.e. Rs.5500-9000 and Rs.7450-11500 raised by Group 'C' employees before the National Anomalies Committee (NAC) under the Joint Consultative Machinery (JCM) could not have represented the applicants in any Committee/Arbitrator. The Tribunal therefore concluded that directions in the order were clearly error apparent on the face of the record and therefore its order dated 6.2.2000 was recalled. This has the effect of restoring the original application No.1835/2000 which is being adjudicated upon by this present order.

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3. The applicants are Junior Works Managers (JWMs) which is categorised as Group B Gazetted. Their pre-revised original pay scale was Rs.2375-3500. The 5th Central Pay Commission recommended the revised scale of Rs.7000-225-11500. This was subsequently changed to Rs.7450-11500 by the Government. Not content with the new revised pay scale on the ground that their counterparts in the Ministries of Railway, Communication, Agriculture etc. have been upgraded and granted the pay scale of Rs.7500-12000; further the formula of multiplying the initial pay scale by 3.25 times adopted in general has not been followed in their case; they have through this OA therefore sought the following reliefs:

- (i) to quash and set aside the letter dated 7.9.99;
- (ii) to direct the respondents to award the pay scale of Rs.8000-275-13500 to the categories of Junior Works Manager (Group B Gazetted) w.e.f. 1.1.96 by applying 3.25 multiplying factor;
- (iii) individuals (JWMs) completing seven years of service in the old scale of Rs.2375-3500 should be upgraded in the pay scale of Rs.10500-15300 with a view to remove the stagnation and proper utilisation of rich experience.

4. While the case came up for arguments before us, the counsel for the applicants has assailed the impugned order mainly on three counts. His first contention is that merger of pay scales cannot be with Group C employees. According to him, the pay scale granted to the JWM i.e. Rs.7450-11500 is reserved for Group C employees and other Group B gazetted employees in other departments have been given higher pay scale. The second ground advanced pertains to the multiplier factor of 3.25 having been denied to the applicants to arrive at the new pay scale which the 5th Pay Commission has more or less

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adopted for most other categories of Government employees. The learned counsel has cited instances of a number of Group A, B and C categories of employees whose revised pay scales conform to 3.25 multiplier or more in support of his arguments. He has laid much stress on this point to prove in support of his contention that the applicants have been denied their right. Under these circumstances, the counsel has contended that the applicants have been discriminated. He has gone on to argue that the order passed, which has been challenged, is not a speaking one and needs to be set aside.

5. Learned counsel for the respondents in his reply has stated that it was incorrect to say that the pay scale of Rs.7450-11500 is reserved for Group C employees and that all other Group B gazetted employees have been granted higher pay scales. In this connection he has quoted the case of Section Officers of CSS, Entry grade of DANIPS, Assistant Engineers in CPWD and other various Group B gazetted posts who have been allowed only the pay scale of Rs.6500-10500, which is lower than the pay scale awarded to JWMs. He has further argued that the Pay Commission has not allowed pay scale with reference to gazetted or non-gazetted status of employees. The Pay Commission, an expert body, goes into a number of other considerations such as educational qualifications, job contents, field requirements, inter se horizontal and vertical~~ly~~ relativities etc. while deciding appropriate pay scale. He has further stated that the formula of pay scale is not a simple arithmetic calculation. 3.25 is a broad multiplier but the same has not been applied in each and every case by the 5th Pay Commission. He has cited a number of instances where the Pay Commission has

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deviated from the ratio and drawn our attention to para 43.4 of the Commission's report in which a number of factors such as merger of scale, rationalization of pre-revised scales, change in span of revised pay scales etc. have been taken into account. In view thereof, the counsel has contended that the question of discrimination does not arise. In this connection, he has cited the decision of the Supreme Court in the case of UOI Vs. P.V.Hariharan 1997(Vol.II) SLR 232.

6. On the question of the impugned order having been cryptic and non-speaking one, the learned counsel for the respondents has contended that the order conveyed to the applicants is the final one based on the decision communicated to the Ministry of Defence by the Department of Expenditure, Ministry of Finance. The counsel has submitted that any change in the pay scale of a class of employees has a bearing on the finance of the State and, therefore, it is the Ministry of Finance which ultimately decides the matter. Series of consultations had taken place before the impugned order was passed and therefore it cannot be said that the order is a cryptic and non-speaking one.

7. We have carefully considered the rival contentions of the parties. We are unable to accept the contention of the learned counsel for the applicants that applicants have been discriminated in the matter of revision of pay scale. The counsel for the applicants has not been able to convince us as to vis-a-vis whom and how they have been discriminated. The Pay Commission, being an expert body, had gone into depth in the matter of revised pay scale and as has been cited by the counsel for the

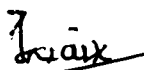
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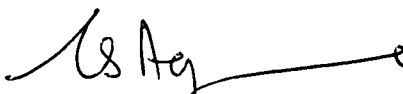
respondents, there are other categories of Group B gazetted employees who have been recommended the pay scale even lower than what has been granted to the applicants. The Hon'ble Supreme Court in the case of UOI Vs. P.V.Hariharan (supra) while dealing with the question of revision of pay scales has held as under:

"The Tribunal should realise that interfering with the prescribed pay scales is a serious matter as pay scales are fixed by Government on the basis of recommendations of Pay Commission. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide this issue. Very often the doctrine of 'equal pay for equal work' is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

As already discussed, no case of hostile discrimination is made out in this case and, therefore, no interference is called for.

8. In view of the foregoing, we find no merit in the present OA and the same is accordingly dismissed. No costs.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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