

Central Administrative Tribunal, Principal Bench

O.A.No. 218 of 2000

Date of Decision 8. 1 .2001

HC Surinder Singh & ors

- Applicants

(By Advocate Shri D.N.Goburdhan)

Versus

UOI & Ors

- Respondents


(By Advocate Shri Ajesh Luthra)

CORAM :

Hon'ble Mr.V.K.Majotra, Member (A)

Hon'ble Mr.Shanker Raju, Member(J)

1. To be referred to the reporter - Yes
2. Whether it needs to be circulated to - No  
other Benches of the Tribunal

  
(V.K.Majotra)  
Member (Admnv)

cc.

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.218/2000

New Delhi this the 8<sup>th</sup> day of January, 2001

HON'BLE MR.V.K. MAJOTRA, MEMBER(A)  
HON'BLE MR SHANKER RAJU, MEMBER (J)

1. HC Surinder Singh  
S/o Shri Dev Karan  
No. 1257/D, Traffic, New Delhi.
2. HC Ram Pal  
S/o Shri Sumer Singh  
No. 824-PCR, New Delhi
3. HC Om Prakash  
S/o Shri S.N. Yadav,  
No. 3112, SW, South-West Zone  
New Delhi.
4. HC Sumer Singh  
S/o Shri Ram Narayan,  
No. 399/S.W, New Delhi.
5. HC Ghasi Ram Meena  
S/o Shri R.N. Meena  
399/SW, N. Delhi  
No. 1585/PCR, South Zone,  
New Delhi.
6. HC Raj Kumar,  
S/o Shri Laxmi Narayan  
1121/PCR New Delhi
7. HC Rameshwar Dayal, S/o Shri J.D. Singh  
2524/Security, New Delhi. -Applicants  
(By Advocate: Shri D.N. Goburdhan)

Versus

1. Union of India through  
Secretary  
Ministry of Home Affairs  
Department of Police Organisations  
New Delhi.
2. National Capital Territory of Delhi  
through Chief Secretary  
Old Secretariat  
Delhi.
3. The Commissioner of Police  
HQRs, Delhi Police  
IP Estate, New Delhi. -Respondents  
(By Advocate: Shri Ajesh Luthra)

ORDER

By V.K.Majotra, Member(Admnv)-

The applicants are working as Head Constables  
(Executive) in the grade of Rs. 3200-85-4900 seeking  
higher pay scale of Rs. 1260-2130 w.e.f. 1.1.1986 as

had been accorded to the Head Constables serving in different States of the Union of India and Union Territories on the ground that their duties and responsibilities as Head Constables of Delhi Police are more arduous than those of the similarly placed Head Constables of other States and Union Territory of Chandigarh. Earlier on, the applicants had filed OA 357/94 on the same subject which was disposed of by order dated 6.1.95 with the following directions:-

"The respondents particularly the Govt. of N.C.T. is directed to make proper suggestions/recommendations to the Vth Pay Commission and the applicants shall lay out the ground on which they want the revision of pay scale by making an effective representation to the respondents within one month from the date of this order. The respondents within 2 months thereafter forward the same to the Vth Pay Commission with their suggestions/ comments/recommendations.

The application is disposed of accordingly with no order as to costs".

2. The applicants have alleged that the 5th Central Pay Commission has failed to take into consideration the directions contained in the aforesaid order of 6.1.99. They have also expressed their apprehension whether the respondents considered/made proper suggestions/recommendations to the 5th CPC. The applicants filed MA-915/98 for revival of OA 357/94 which had been finally disposed of by Tribunal's order dated 6.1.95. This MA was dismissed vide order dated 17.5.99 (Annexure-B). The applicants approached the High Court in Writ Petition No. 6847/99 which was dismissed on 16.11.99 vide Annexure-C. According to the applicants, because the Delhi Police and Chandigarh Police are under the administrative control of Ministry of Home Affairs, it

constitutes a well defined class particularly the posts of Head Constables. The differentiation between them would be violative of the provisions of Article 14 of the Constitution. They have also pointed out that there is a very small gap in the minimum of the pay scales of the Constables and Head Constables working in Delhi Police although the Head Constables have much more onerous duties and responsibilities than the Constables. The applicants have sought declaration towards entitlement of the Head Constables (Executive) in Delhi Police to a pay scale of Rs. 1260-2130 w.e.f. 1.1.1986 with consequential benefits. (14)

3. In their reply, the respondents have stated that although the earlier pay scale of Rs. 260-350 which the Head Constable of Delhi Police were in receipt of was generally revised ~~the scale~~ to Rs. 950-1400; the same was upgraded to Rs. 975-1660. The respondents have further stated that in pursuance of order dated 6.1.95 of the Tribunal, the representation made by the applicants was forwarded to Govt. of NCT of Delhi alongwith the brief facts and parawise comments which were further forwarded to the 5th Central Pay Commission on 9.6.95<sup>5/6</sup> (Annexure R-2). However, the 5th Central Pay Commission did not make any recommendation on that basis. The respondents have also tried to explain the disparity in the pay scales of Head Constable of Delhi Police and police of Chandigarh Administration. According to them, Chandigarh was constituted as UT w.e.f. 1.11.90<sup>66/6</sup> by Punjab Re-Organisation Act, 1966 and thereafter a separate State of Himachal Pradesh was constituted on 25.11.1971<sup>by</sup> State of Himachal Pradesh Act, 1970. Prior to that all these employees belonged to one compact cadre of Punjab Police. The constitution of separate

States of Haryana, Himachal Pradesh and UT of Chandigarh from the erstwhile Punjab led to division of the compact cadre of Punjab Police. Thereafter, the "Conditions of Service of UT of Chandigarh Employees Rules, 1966" were notified vide notification dated 1.11.66" providing that persons appointed to the Central Civil Services and Posts, Class I, Class II, Class III and Class IV in the administrative control of Administrator of Chandigarh shall, subject to any other provisions made by the President, be the same as the conditions of service of persons appointed to other corresponding Central Civil Services and Posts and be governed by the same rules as are for the time being applicable to the latter category of persons. The said Rules further states that the scale of pay, dearness allowance and other allowances granted to such employees, shall, until any provision is made on that behalf, continue to be governed by the orders in force immediately before the commencement of these Rules provided further that in case of persons appointed to service and posts under the administrative control of the Administrator of Chandigarh, if they are drawing pay at the rates admissible to corresponding categories of employees of the Govt. of Punjab it shall be competent for the Administrator to revise their scales of pay which may be sanctioned from time to time for the corresponding categories of employees. By virtue of provisions laid down in the Notification dated 1.11.1966 the Chandigarh Administration had followed the Punjab pattern of pay scales and other allowances to their employees from 1.11.1966. The revised scales of pay based on the recommendations of the IV Central Pay Commission were implemented with effect from 1.1.1986 in respect of the employees of all the Union

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Territories except those of Chandigarh. The UPSC vide para 27.1 of the report stated that in view of the stated policy of the Central Government to transfer Chandigarh to Punjab, they have not dealt with the UT of Punjab. However, looking to the persisting demand from the employees and associations of the employees of UT of Chandigarh for the Central Scales of pay, the Government decided to extend the Central Scales of pay to the employees of Chandigarh Administration as adopted by the UT of Delhi for their employees. When the Govt. of Punjab revised the scales of pay of their employees on the basis of the recommendations of the III Punjab Pay Commission, the Associations of the employees of UT of Chandigarh demanded reversion to the Punjab pay scales. After due consideration, it was agreed to grant Punjab pay scales w.e.f. 1.4.91 subject, inter-alia, to the condition that the employees will have to adopt not only the scales of pay and allowances but all rules regarding pension, gratuity, LTC, etc. of the Government of Punjab. In this manner, the respondents have tried to explain the non-applicability of the pay scales obtaining for the UT of Chandigarh to the employees of Delhi. The respondents have also drawn attention to the recommendations contained in para 70.64 of the 5th Central Pay Commission report. Thus, the applicants as Head Constables have been given the pay scale of Rs. 3200-4900 which is corresponding revised scale of Rs. 975-1660 on the implementation of 5th Pay Commission Report.

4. We have heard the learned counsel of both sides and the records available in the file. We have also gone through the enclosures to Annexure R-2 such as representation of the applicants, brief facts and

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parawise comments of the respondents placed before the 5th Central Pay Commission which were produced by the respondents before us.

5. The learned counsel of the applicants drew our attention to para-70.64 of the 5th Central Pay Commission Report relating to Delhi Police which reads as follows:-

"The posts of Asst Commissioner of Police and above are manned by IPS officers and DANIPS officers and their scales of pay have been discussed in the relevant chapters. 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. On that basis, we recommend the following scales for Delhi Police:

	Existing (Rs.)	Proposed (Rs.)
Inspector	2000-3200	2000-3500
Sub-Inspector	1640-2900	1640-2900
Asstt.Sub-Inspector	1320-2040	1320-2040
Head Constable	975-1660	975-1660
Constable	950-1400	950-1400

The learned counsel stated that the 5th Central Pay Commission has made these recommendations without taking into consideration the directions made by this Tribunal in their order dated 6.1.95. He particularly stated that whereas the 5th Central Pay Commission and the respondents have not taken into account the pay scales of Police personnel in the neighbouring states in the matter of granting pay scales to the Head Constables of Delhi Police, they have also maintained a very marginal difference in the minimum pay scales of the Constable and Head Constable. The replacement scales of the Constables and Head Constables in Delhi

Police as recommended by the 5th Pay Commission and adopted by the Ministry of Home Affairs vide their order dated 10.10.97 (Annexure R-5) are 3050-70-4590 and Rs. 3200-85-4900 respectively. The difference of Rs. 150/- in the minimum of the above two pay scales is considered marginal by the applicants.

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6. The learned counsel of the respondents referring to the recommendations of the 5th Central Pay Commission contended that the pay scales for the Constable and Head Constable of Delhi Police among others were recommended by the 5th CPC after taking into consideration the pay scales of police personnel in the neighbouring states, therefore, the applicants cannot have any grievance regarding them.

7. According to the applicants, the pay scales and difference in the minimum of pay scales of Constables and Head Constables in Delhi Police and its neighbouring states/Union Territories are as under:-

State	Constable	Head Constable	Diff
Chandigarh	1050-1800	1260-2130	210/-
Delhi	950-1400	975-1660	25/-
Punjab	1060-1800	1260-2130	210/-
H.P.	1050-1800	1260-2130	210/-
Haryana	1000-1800	1200-2040	200/-

8. The respondents have not contradicted the above comparison. Whereas we are satisfied as to the explanation tendered by the respondents in not providing parity to the applicants with the Head Constables of Chandigarh police <sup>but by</sup> looking to the nature of duties and responsibilities of the Delhi Police vis-a-vis the police of the neighbouring states, respondents have not furnished any cogent reasons for the blatant disparity which exists in the pay scales of Head Constables of Delhi Police and those of the other neighbouring states. They have also not brought out any considerable difference in the nature of duties and

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responsibilities of the Head Constables of Delhi Police and those of other states.

9. From the comparison of the pay scales stated above, it is clear that though the Pay Commission has stated to have taken into account the pay scales of police personnel in neighbouring states while making their recommendations with regard to the pay scales for Delhi Police, <sup>his</sup> <sup>the</sup> ~~the claim~~ <sup>is</sup> is not established from the facts.. If the CPC had taken into consideration the pay scales obtaining in the neighbouring states of Delhi, the Head Constables of Delhi Police would not have been denied the pay scales of Rs. 1260-2130 as obtained in the States of Punjab, Himachal Pradesh etc., Whereas the pay scales of Delhi Police cannot be compared with those of the Central Police Organisations, there being hardly anything in common with them, the pay scales of police personnel in the neighbouring states have to be given due consideration while considering the claim of the personnel of Delhi Police.

10. We are conscious of the fact that normally it does not lie within the powers of the Courts to interfere with the recommendations of an expert body like the Central Pay Commission but here is a case where though a claim has been made by the expert body for having taken into consideration the pay scales of the police personnel of neighbouring states while making recommendations of pay scales for Delhi Police, the same is not borne out from the facts, hence our compulsion to intervene in the matter.

11. Having regard to reasons given above and peculiar facts and circumstances of the case, the OA is disposed of with a direction to Respondent No.1 Secretary to Union of India, Ministry of Home Affairs, New Delhi to constitute a special Committee drawing

representatives from the Union of India, the Government of National Capital Territory of Delhi and the Commissioner of Police, Delhi to make recommendations with regard to the pay scales of Head Constables of Delhi Police w.e.f. 1.1.1996 when the pay scales based on the recommendations of the 5th Central Pay Commission were adopted by taking into account the pay scales of the police personnel in the neighbouring states. After the recommendations of the special Committee are available, respondents must take final decision thereon expeditiously. The respondents are further directed to complete the entire process as stated above within a period of two months from communication of these orders. No costs.

S. Raju  
(Shanker Raju)  
Member (J)

V.K. Majotra  
(V.K. Majotra)  
Member (A)

cc.

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