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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A.No.2280 of 1989

New Delhi, this the 3rd day of January, 1995.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN

HON'BLE MR B.N.DHOUNDIYAL, MEMBER (A)

1. Shri M. S. Rawat,  
Photo Printer Gr. I.,  
Directorate of Naval Architecture,  
Sena Bhawan, New Delhi.

2. Shri S.K. Verma,  
Photo Printer Grade-I,  
Directorate of Naval Air Material,  
Naval Headquarters,  
Ministry of Defence,  
'A' Block Hutments,  
D.H.Q., New Delhi.

... Applicants.

(through Mr B.B. Srivastava, Advocate).

vs.

Union of India, through

1. Secretary to the Government of India,  
Ministry of Defence,  
Sena Bhawan, New Delhi.

2. Chief Administrative Officer,  
Ministry of Defence,  
'Q' Block Hutments,  
Delhousie Road, New Delhi.

3. Director of Administration,  
Naval Headquarters, New Delhi.

... Respondents.

(through: None).

Order(oral)  
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Justice S.K. Dhaon, Vice Chairman

The two applicants held the two posts of Photo Printer Grade-I in the Directorate of Naval Headquarters. They have come to this Tribunal with the principal grievance that even though the nature and duties of their work was similar to those of Zerox Operator Grade-I, they were being given less emoluments than those being paid to

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the Xerox Operator Grade-I. In substance, the applicants have invoked the principle of "equal pay for equal work".

2. A counter-affidavit has been filed on behalf of the respondents. Therein, the material averments are these. The applicants were appointed as Photo-Printers Grade-I during August, 1969 and were placed in the pay-scale of Rs.130-280. Subsequently, on the recommendations of the Third Pay Commission, the scale was revised to Rs.290-560. In January, 1981, applicant No.1, in his representation addressed to the Chief Administrative Officer, Ministry of Defence requested for authorisation of pay-scale of Rs.205-280 from the date of his appointment till 31.12.1972 and Rs.425-600 w.e.f.1.1.1973. As the pay-scales were authorised on the basis of the recommendations of the 3rd Pay Commission its upgradation was not possible. On the recommendations of the 4th Pay Commission, the post of Printer Grade-I has been authorised the pay scale of Rs.1350-2200, as admissible to the post of Xerox Operator Grade-I, as the 4th Pay Commission was informed that the duties of these posts were comparable. The revised scale of pay was implemented from 1.1.1986. The recruitment to the post of Printer Grade I and Xerox Operator Grade-I were governed by different sets of recruitment Rules and different qualifications were prescribed for recruitment to these two category of posts. Prior to revision of pay scales, on the basis of the recommendation of the 3rd Pay Commission, Xerox Operators were authorised pay scale of Rs.205-280 and Photo Printer Grade-I were authorised the pay scale of Rs.130-280. The difference of pay scales were because of subtle difference in the duties and

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responsibilities attached to these posts.

3. The aforesaid observations have been amply corroborated by the contents of the relevant rules. These rules have been framed under Article 309 of the constitution. In the case of Zerox Operator Grade-I, the essential qualification prescribed is 5 years' experience of camera operating and plate making or Electrostatic negatives. In the case of Photo Printer Grade-I, knowledge of photography and working knowledge of various processes of developing, printing and enlarging is required. However, merely three years experience in operating photo printing and other reproduction machine is required. It will thus be immediately seen that the rules themselves envisage different nature of duties and different span of experience. In the rejoinder affidavit filed, no attempt has been made to controvert these allegations referred to in the counter-affidavit in so far as they relate to the nature and duties of the work and the qualification laid down. The applicants have contented themselves by stating that the contents of the C.A. are re-iterated.

4. It is now well-settled that the doctrine of equal pay for equal work is a mere facet of the Article 14 of the Constitution. What is, therefore, to be seen is whether the classification between Photo-Printer Grade-I and Zerox Operator Grade-I as done by the Rules framed under Article 309 of the Constitution was and is rational or was and is arbitrary. On the face of it, we do not find any element of arbitrariness in distinguishing between the two sets of operators. Moreover, it has to be kept in mind that a Rule framed under Article 309 of the Constitution is a legislative act and there is a

presumption of constitutional validity in the actions of the legislature. That presumption, in our opinion, has not been rebutted by the applicants in the O.A. We are basing ourselves on the decision of the Hon'ble Supreme Court in the case of State of Madhya Pradesh vs. Parmod Bhartiya and others, JT 1992(5) SC 683.

5. Merit apart, the plea of limitation has also been raised by the respondents. In fact, the learned members of the Bench, who admitted the O.A. kept the question of limitation open, to be examined at the time of final hearing. We have perused the application seeking condonation of delay. The learned counsel has pointed out that the delay is for a mere period of 3½ months. The other technical objection raised, in substance, is that the applicants are <sup>raising</sup> referring an issue, which relates to the period prior to the coming into force the Administrative Tribunals Act and therefore this matter relates to the period when this Tribunal did not come in existence. The respondents have, therefore, urged that this Tribunal has no jurisdiction to try the present Q.A. In view of the fact that we have entered into the merits of the case, we do not consider it necessary to examine the tenability of the Preliminary Objections raised in the counter-affidavit.

6. We have already indicated that the applicants have been given the equivalent grades as given to the Zerox Operators Grade-I, w.e.f. 1.1.1986 on the basis of the recommendations of the 4th Pay Commission. The learned counsel has invited our attention to a Notification dated 11.5.1988, issued by the Ministry of Defence. In particular, he relies upon paragraph 5 of the said Notification, wherein it is

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recited that notwithstanding anything contained in these rules, any officer holding the posts of Xerox Operator Grade-I or Photo Printer Grade-I or Photostat Operator shall be deemed to have been <sup>up</sup>pointed to the posts of Machine Operator (Xerox)/Photostat Operator....\* This notification has obviously been issued to implement the <sup>sy</sup> recommendations of the 4th Pay Commission, ~~that~~ <sup>which</sup> the Central Government in its wisdom accepted. The matter, therefore, on the practical level, falls in the domain of a policy decision. On the whole, we are satisfied that ample justice has been done to the applicants by the recommendations of the 4th Pay Commission and the acceptance thereof by the Central Government. This is an additional ground for not giving any relief to the applicant. This application fails and is dismissed but without any order as to costs.

*B. N. Dhondiyal*  
 ( B.N.Dhondiyal )  
 Member(A)

*S.K. Dhaon*  
 ( S.K.Dhaon )  
 Vice Chairman.

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