

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No.2488/1989

New Delhi, this the 7th day of November, 1994.

HON'BLE MR.JUSTICE S.C.MATHUR CHAIRMAN

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

1. Shri R.C.Kapoor
son of late Shri I.S.Kapoor,
R/O E-103, Greater Kailash
Enclave-I, New Delhi and
working as Supdt.(AC),
Dte. of Estate, M/O Urban
Development, New Delhi.
2. Shri Amarjit Singh s/o
late Shri Harbail Singh Khurana,
r/o C-II/F-23, Lodhi Colony,
New Delhi & working as Supdt.(A/c)
Directorate of Estates,
New Delhi.
3. Shri R.S.Negi s/o late
Shri G.S.Negi, r/o A-2434,
Netaji Nagar, New Delhi
& working as Supdt.A/C,
Dte. of Estates, New Delhi.
4. Shri Har Bilas s/o Sh.Tola Ram,
Supdt.(A/c) Dte.of Estates,
New Delhi.
5. Sh.Deep Chand s/o Sh.Duli Chand,
Supdt.(A/c) Dte. of Estates,
New Delhi.
6. Shri KC Madan s/o late Sh.SS Madan,
Supdt. (A/c) Dte. of Estates,
New Delhi.
7. Sh. M.F.G.Nair s/o Sh.MSP Nair,
Supdt.A/c, Dte. of Estates,
New Delhi.
8. Shri RK Kapoor s/o Sh.Shiv Ram Kapoor,
Supdt. (A/c), Dte. of Estates,
New Delhi.
9. Sh. Theodore Ekka s/o Sh.Some Ekka,
Supdt. (A/c) Dte of Estates,
New Delhi.
10. Shri Shree Ram s/o Sh.Tota Ram
Supdt. (A/c) Dte. of Estates,
New Delhi.
11. Sh. A.C.Khosla s/o Sh.Shadi Ram Khosla
Supdt. (A/c) Dte. of Estates,
New Delhi.
12. Sh.BB Bahuguna s/o late Sh.TR Bahuguna,
Supdt. (A/c) Dte. of Estates,
New Delhi.

13. Sh. Partap Singh s/o Sh. Devi Singh
Supdt. (A/C) Dte. of Estates,
New Delhi.
14. Sh. JB Garg s/o Sh. Madan Mohan Lal,
Supdt. (A/c) Dte. of Estates,
New Delhi.
15. Sh. Sagar Chand s/o Late Sh. Mai Lal
Supdt (A/c) Dte. of Estates,
New Delhi.

...Applicants

(By Advocate Shri Gyan Prakash)

Vs.

1. Union of India, through:
Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. Director of Estates,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
3. Ministry of Finance,
Government of India,
North Block, New Delhi.

..Respondents.

(None for respondents)

ORDER

HON'BLE SHRI P.T. THIRUVENGADAM MEMBER(A)

The applicants are working as Superintendents (Accounts) in the Directorate of Estates and belong to a separate accounts cadre. They had represented to the respondents that 80% of their posts in scale Rs.1640-2900 should be fixed in the higher functional grade of Rs.2000-3200 on the analogy of Section Officer (Accounts), Junior Accounts Officers commonly known as SAS Accountants in whose case 80% have been given higher functional grade of Rs.2000-3200 with effect from 1.4.1987. These representations were rejected by the respondents vide O.M. dated 20-4-89 and 21-9-89. This O.A. has been filed challenging these Memoranda by which representations have been rejected and for a direction to upgrade 80% of posts of Supdt. (Accounts) to the selection grade of Rs.2000-3200 from 1-4-1987.

2. The learned counsel for the applicants argued

that duties and responsibilities of Supdt.(Accounts) in the Directorate of Estates are comparable to that of the SAS Accountants. It was also claimed that before the 3rd Pay Commission the Supdt.(Accounts) were in higher scale compared to SAS Accountants. After the implementation of the 3rd Pay Commission recommendations, the scales of these two categories were equal. However, divergence in the pay scales to the detriment of the applicants has taken place after the 4rth Pay Commission. Even the 4rth Pay Commission in para 11.38, of Part I of its Report had left the matter to the government with regard to upgradation of posts in the scale of Rs.2000-3200. But the government have given the benefit only to certain accounts organisations with different ministries, and have ignored the accounts cadre in the Directorate of Estates. The learned counsel for the applicant referred to the duty lists of SAS Superintendents and Superintendents (Accounts) of the Directorate of Estates, attached as Annexure A.9 & A.10, respectively to the O.A.

3. Though none appeared on behalf of the respondents, we have gone ahead to dispose of the case based on the documents available on record. We note that in the reply filed by the respondents a stand has been taken that the duties, responsibilities and recruitment qualifications in the case of SAS Accountants vis-a-vis Superintendents (Accounts) are entirely different. Reference to relevant recommendations of the 4rth Pay Commission (para 11.38) has also been made in the reply. This para reads as under:-

"11.38. We have considered the matter. There has all along been parity between the staff at IA&AD and accounts staff

of other departments, which has been disturbed by restructuring IA&AD into two separate cadres viz., audit cadre and accounts and establishment cadre and giving higher scales to a major portion of staff on the audit side. The audit and accounts function complementary to each other and are generally performed in many government offices in an integrated manner which is necessary for their effective functioning. The staff in these offices perform functions of internal check and audit suited to the requirements of each organisation which are equally important. There is direct recruitment in the scale of Rs.330-560 in all the audit and accounts cadres through Staff Selection Commission/ Railway Recruitment Boards from amongst university graduates. We are therefore of the view that there should be broad parity in the pay scales of the staff in IA&AD and other accounts organisations. Accordingly, we recommend that the posts in the pay scale of Rs.425-700 in the organised accounts cadres may be given the scale of Rs.1400-2600. In the Railways, this apply to the posts of sub.head in both the ordinary and selection grades. We also recommend that this should be treated in future as a functional grade requiring promotion as per normal procedure. The proposed scales of Rs.2000-3200 of section officer may also be treated as a functional grade. With the proposed scales, there will be no selection grades for any of the posts. As regards the number of posts in the functional scales of Rs.1400-2600 and Rs.2000-3200, we note that about 53 per cent of the total posts of junior/senior auditor and 66 per cent of the total posts of ordinary and selection grade of section officer in IA&AD are in the respective higher scales. Government may decide the number of posts to be placed in the scales of (i) Rs.1400-2600 and (ii) Rs.2000-3200 in the other organised accounts cadres taking this factor into consideration. All other accounts

posts may be given the scales recommended in chapter 8."

4. The respondents have stated that the accounts cadre of Directorate of Estates is not an organised cadre and hence as per recommendations of the 4th Pay Commission only normal replacement scales have been sanctioned. It has also been averred that the staff in the organised accounts departments perform functions of varied types including internal check and audit apart from maintaining the accounts of that department; whereas Superintendents (Accounts) are responsible for maintenance of rent accounts of public premises only. The 4th Pay Commission was aware of the other accounts posts not included in any of the organised accounts cadres and while making recommendations the Commission had studied the nature of duties performed by the staff in organised accounts cadre as well as those in unorganised accounts cadre.

5. There is a provision for direct recruitment in the pay scale of Rs.1200-2040 from university graduates and after passing the SAS examination which consists of two parts, they get promoted to the posts of SAS Accountant in the pay scale of Rs.1640-2900. Considering the qualification and the quality of the SAS examination the higher functional grade in scale of Rs.2000-3200 has been provided for them. On the contrary, the Superintendents (Accounts) are promoted from the lower grade of accountants who form the feeder cadre for promotion. These lower grade accountants in Rs.1400-2600 are recruited from amongst the UDCs with five years service and who have merely undergone cash and accounts training conducted by the Institute of Secretariat Training and Management. This training is in no way parallel to subordinate accounts service examination essential in the organised accounts cadres.

In the rejoinder filed by the applicants, the points raised by the respondents have been contested. We, however, note that there is difference in method of recruitment and the duties and responsibilities of the two sets of cadres.

6. We thus note that equality in pay scale is the principle thrust into service to advance the claim of the applicants. Whether the work is equal and whether the employees in question are similar are matters for the administrative government and policy makers to decide. It is not the function of the court to pronounce on such matters. In State of U.P. Vs. JP Chaurasia (AIR 1989 SC 19) their Lordships of the Supreme Court observed "Equation of posts or equation of pay must be left to the executive government. It must be determined by the expert bodies like the Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. Court should not try to tinker with such equivalence unless it is shown that it was met with extraneous considerations." A similar view was taken in Federation of All India Customs and Central Excise Stenographers (recognised) and Others Vs. Union of India and Others (1988 (7) ATC 591) wherein the Lordships of the Supreme Court have observed "Equal pay must depend upon the nature of work done, it cannot be judged by mere volume of work. There may be a qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and this element of value judgement lies ^{with} those who are

charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgement is made bonafide, reasonably and ^{on} equitable criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination." In this state of law we do not see that it is our province to give a direction as prayed for.

7. In the circumstances, the application is dismissed but such dismissal will not stand in the way of the representation, if any, of the applicants before the 5th Pay Commission. No costs.

P.T. Thiruvengadam
7/11/74
(P.T. THIRUVENGADAM)
Member (A)

S.C. Mathur
(S.C. MATHUR)
Chairman.