

O.A. No. 26
T.A. No.

DATE OF DECISION January 16, 1989.

Advocate for the Respondent(s)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

(Amitav Banerji)
Chairman

16.1.1989.

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CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

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D.A.No. 26 of 1989.

Date of decision: January 16, 1989.

Shri Sudhir Tandon, S/o Late Shri R.N. Tandon,
Assistant Station Director, Delhi Doordarshan
Kendra, New Delhi and 7 others. .. Petitioners.

Vs.

Union of India through the Secretary, Ministry
of Information and Broadcasting, New Delhi
and 3 others. Respondents.

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman.
Hon'ble Mr. Kaushal Kumar, Member (A).

For the Petitioners: .. Mr. M.C. Tuneja.
For Respondents: .. None.

(Judgment of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji.)

J U D G M E N T.

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This Original Application is filed on 21--12--1988
by Shri Sudhir Tandon, Assistant Station Director, Delhi
Doordarshan Kendra, New Delhi and seven others. It is
directed against the Union of India, Secretary to the
Government of India, Ministry of Finance (Department of
Expenditure), Director General, All India Radio, New Delhi
and Director General, Doordarshan, New Delhi.

The applicant is aggrieved by an order dated 13--3--1987 passed by the 2nd Respondent, Secretary to the Government of India, Ministry of Finance (Department of Expenditure) allegedly equating the higher pre-revised scale of Rs.900-40-1100-EB-50-1400 attached to the cadre of Assistant Station Directors of All India Radio and Doordarshan with the lower pre-revised pay scale of Rs.700-40-900-EB-40-1100-50-1300 for the purpose of revision of Central Pay Scales with effect from 1--1--1986 on the recommendation of the "Fourth Central Pay Commission" (hereinafter referred to as "the Commission".)

The prayer made in the Original Application is:

- (a) to quash the Notification dated 13-3-1987 in so far as it applies to the cadre of the Assistant Station Directors in All India Radio and Doordarshan in the matter of revision of their pay scale with effect from 1--1--1986;
- (b) to order re-revision of pay scale of the cadre of Assistant Station Directors in All India Radio and Doordarshan to Rs.3000--100--3500--125--4500 retrospectively i.e., with effect from 1-1-1986;
- (c) to order payment of such arrears of pay and allowances as may become payable on revision of pay scale of Rs.3,000--4,500 with effect from 1-1-1986 and
- (d) Costs of the Application.

The case of the applicants is this:

That before 1-1-1986, the posts of Assistant Station Directors of All India Radio and Doordarshan carried the pre-revised scale of pay Rs.900--40-1100-EB-50--1400 with effect from 1-1-1973 when it was prescribed on the recommendation of the Third Central Pay Commission which was higher than the Standard Class I (Group-'A') Junior Pay Scale of Rs.700-1300 which was attached to the lower feeder posts of Programme Executive in the selection grade, the of ordinary grade/which carried the pay scale of Rs.650--1200 (Group -'B', Gazetted.) The Fourth Central Pay Commission made a recommendation that "the majority of the posts in the scale of Rs.900-1400 are under the Ministry of Information and Broadcasting are given and these/proposed to be /the pay scale of Rs.700--1300 on the formation of the Indian Broadcasting Programme Service." The Commission was of the view that the entry scale for all Group "A" services and posts should be the same and recommended that the categories of posts covered by the Scales of pay of Rs.700--1300, Rs.700--1600/- and Rs.900--1400 may be given the scale of Rs.2,200-75-2800-

EB-100--4000 which has a span of 25 years.

In pursuance of the recommendation of the Fourth Central Pay Commission, Respondent No.2 issued orders for replacement of the pre-revised scales of pay of Rs.900-1400, Rs.700-1300 and Rs.700--1600 by the revised scale group of Rs.2,200--4,000 by the Notification dated 13-3-1987, by which the Central Civil Services (Revised Pay) Amendment Rules, 1987 were made further to amend the Central Civil Services (Revised Pay) Rules, 1986. Under Rule 1(2), these Rules came into force with effect from 1--1--1986.

The applicants are really aggrieved by the recommendation of the Commission which equated the applicants in the lower scale of Rs.700--1300 for purpose of replacement in the revised pay scale. They claim that they should have been cadre of equated with the ~~scale of pay~~ "Central Surgeons" who had been in the grade of Rs.900-1400 and who had been given the revised scale of Rs.3,000--4,500

Reference was made to the report of the Pay Commission published in Part I- Section I of the Gazette of India Extraordinary dated 13th March, 1987 vide Paragraph XIV - 'Medical Officers' - 11.74, 11.75, 11.76, 11.77 and 11.78.

In other words the claim made by the Applicants is for a higher scale of pay allowed to the Dental Surgeons as per the recommendation made by the Commission.

It is not disputed that the Central Government has accepted the recommendation of the Commission in respect of the Assistant Station Directors of All India Radio and Doordarshan who are in the pay scale of Rs.900--1400. The dispute is, as we have said earlier, with regard to the recommendation of the Commission. It was urged by the applicants that there is discrimination in the pay scales of the applicants and that of the Dental Surgeons for the Dental Surgeons have been given a higher pay scale of Rs.3,000--4,500.

We are not able to accept this contention for the reason that the Commission itself had made the distinction between the applicants and the Dental Surgeons. The Commission has considered the category of Dental Surgeons in paragraphs 11.74 to 11.78.

In paragraph 11.75 it is mentioned that the Commission has taken into consideration the representation that "there should be parity in pay scales and status of dental surgeons and allopathic doctors because the nature of the duties, duration and content of their respective course, are comparable. Internship, which was previously not compulsory for dental surgeons, has been made compulsory from 1984. The Ministry of Health and Family Welfare has recommended such parity.". In paragraph 11.76 it is further stated that "the promotion prospects of dental surgeons are said to be poor, and it has been represented that these should be comparable with general duty officers of Central Health Service." Paragraph 11.77 reads that "there is no significant difference between the levels of minimum qualifications, course content and period of internship, etc., in BDS and MBBS course. Taking all relevant factors into consideration, we recommend that dental surgeons may be included in Central Health Service/Railway Medical Service and given the pay scales applicable to general duty officers of these services. With such inclusion in the respective medical services, we recommend that recruitment to the posts of dental surgeons may also be made through a competitive examination."

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We find that there is a reasonable basis of classification and there is no nexus between the levels of minimum qualifications, course content etc. prescribed for Dental Surgeons and that for Assistant Station Directors of All India Radio and Doordarshan. There is vast difference in their training. The internship is a feature which is totally absent amongst the Assistant Station Directors of All India Radio and Doordarshan. It is well settled that "in order to pass the test of permissible classification two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that, that differentia must have a rational relation to the object sought to be achieved by the provision in question". It is also well settled that "the classification may be founded on different basis according to objects or occupation or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration".

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In the present case, the basis of classification is well established. As indicated earlier, the minimum qualifications, course content and period of training and duties are different between the applicants and dental surgeons. Hence different pay scales could be granted without being afflicted by the vice of discrimination. However, we are of the view that it is not necessary to express our views further on this point because the Report of the Commission is not a piece of legislation nor an order by the Government which can be challenged. It is a recommendation made by the Commission and the Government may or may not accept it.

Further, this Tribunal cannot take the place of Central Pay Commission and amend the recommendations or substitute its views in place of the recommendations of the Commission.

We are, therefore of the view, that
we cannot interfere with the recommendations
of the Commission in the present Original
Application and therefore it cannot be
admitted for hearing before this Tribunal.

We therefore reject this application at the
admission stage.



(KAUSHAL KUMAR)
MEMBER (A)



(AMITAV BANERJI)
CHAIRMAN

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