IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 398/89 with
OA No. 399/89

DATE OF DECISION: 27.11.1990.

Shri P.N. Singh & (OA-398/89) ...Petitioners
Shri S.R. Prasad

Shri Ishwar Singh &(OA-399/89)
Shri Gurmit Chand

Shri R.L. Sethi Advocate for the Petitioner(s)

Versus

Union of India Respondents

Shri P.H. Ramchandani Advocate for the Respondent(s)

CORAM:

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? yes
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

(AMITAV BANERJI)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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Shri P.N. Singh & ....Applicants
Shri S.R. Prasad

Versus

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OA N.399/89

Shri Ishwar Singh & ....Applicants
Shri Gurmit Chand

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Coram:

The Hon'ble Justice Mr. Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

Advocates:

For the applicants ...Shri R.L. Sethi

For the respondents ...Shri P.H. Ramchandani

(Judgement of the Bench delivered by Hon'ble Mr. I.K. Rasgotra, Member (A)).

OA No.398/89 filed by Shri P.N. Singh and Shri S.R. Prasad and OA No.399/89 filed by Shri Ishwar Singh and Shri Gurmit Chand, under Section 19 of the Administrative Tribunals Act, 1985 have raised the issue of parity in scales of pay to the Film Editors/ Assistant Editors, Minitry of Defence with the Film Editors/Assistant Editors in the Ministry of Information and Broadcasting (I&B) on the principle of 'equal pay for equal work.' In view of the commonality of issues of law and facts raised herein we propose to deal with both the OAs through this common judgement.

2. The undisputed facts are that the applicants in OA-398/89 were working as Assitant Film Editors in the Ministry of I&B. Later, they were selected as Film Editors in the pay scale of Rs.470-750 in the Ministry of Defence. Shri P.N. Singh was appointed w.e.f. 11.3.1977 while Shri S.R. Prasad was appointed from November, 1976 as Film Editor (applicants in OA-398/88). While Shri Ishwar Singh and Shri Gurmit Chand were selected for appointment as Assitant Editor (Film) in the Ministry of Defence w.e.f. 9.9.1977.

3. The applicants in both the OAs have based their claims on the following consideration:-

a.) Nature of duties of Editor and Assistant Editor (Films) in the Ministry of Information & Broadcasting and in the Ministry of Defence are identical.

b.) Recruitment qualifications are exactly the same.

c.) Both were in the same scale before 1.1.1986.

However, consequent upon the implementation of the recommendation of the Fourth Central Pay Commission the following scales of pay have been allotted for the post held by them:-

Editor : Rs.1400-2600

Assistant Editor : Rs.1200-1800

In the Ministry of Information & Broadcasting, however, the scale of pay implemented for the Editors is Rs.2000-3200, and that for the post of Assistant Editor Rs.1400-2300. The applicants have cited quite a few judicial pronouncements, listed in the margin below* in

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*1. 1982 (1) SLR 756
*2. 1985 Supp. SCC 94
*3. 1986 (1) ATR 76
*4. 1986(1) ATR 172
*5. 1986 (2) ATR 79
*6. 1986 (2) CAT 79
*7. OA-1139/86 decided by CAT on 5.1.1988.
*8. OA-853/86 decided by CAT on 10.9.1987.
*9. 1986(1) SCC 637.

support of their claim based on the doctrine of 'equal pay for equal work'.

4. By way of relief the applicants have prayed that the discriminatory impugned order issued by the respondents on 17.1.1989 be set aside and the respondents be directed to allot the scale of pay of Rs.2000-3200 to Editors and Rs.1400-2300 to the Assistant Editors.

5. Shri R.L. Sethi, the learned counsel for the applicants submitted that the applicants were selected in the scale of Rs.470-750 as Film Editors in the Ministry of Defence when they were working as Assistant Editors in the scale of Rs.380-560. It is ironical that now while the scales of Rs.2000-3200/Rs.1400-2300 have been allotted to these posts in the Ministry of Information & Broadcasting similar posts in the Ministry of Defence have been relegated to the lower scales of pay of Rs.1400-2600/Rs.1200-1800. The learned counsel contended that the duties and responsibilities and the recruitment qualifications of Editors and Assistant Editors in Ministry of Defence and in Ministry of Information & Broadcasting are exactly the same and therefore following the doctrine of 'equal pay for equal work', the applicants are entitled to the scales of pay viz. Rs.2000-3200 for Editors and Rs.1400-2600 for the Assistant Editors w.e.f. 1.1.1986. The learned counsel also submitted that prior to 1.1.1986 the scales of pay for these categories were identical in both the Ministries.

6. Shri P.H. Ramchandani, Senior counsel for the respondents submitted that the pay scales have been allotted to various categories in the respective

Ministries on the basis of the extensive research and study of the duties and responsibilities and other relevant factors by the Fourth Central Pay Commission. It will not, therefore, be proper for the Tribunal to go into this matter. He further submitted that the Fourth Central Pay Commission's recommendations were implemented in consultation with the staff side of the Joint Consultative Machinery (JCM). The learned counsel also drew our attention to paragraph 1.4. of the counter affidavit and submitted that a decision in such cases in isolation is likely to cause distortion in pay scales and disturb the relativities. The matter agitated by the applicant is also pending before the Anamoly Committee of the JCM, Ministry of Defence.

7. We have heard the learned counsel of both the parties and considered the matter carefully. The Fourth Central Pay Commission was an expert body which was presided over by a former judge of the Supreme Court with eminent, academics, economists and administrators as members. They studied the problems, relating to the management of pay systems and the requirment of the public service in the peculiar circumstances within the confines of our country. In this onerous task they held consultations with a wide spectrum of management experts, senior administrators, leaders of the Trade Unions and associations of Central Government employees and took into consideration the memoranda submitted by the Ministries/Departments, a large number of staff associations and individuals. They also drew upon the expertise of the various sub Committees who studied specifice problems and submitted reports to them. After an expert body has gone through a detailed process of determination of pay scales taking into consideration all relevant factors, it will not be possible for us to

determine the question of appropriate scale of pay on the basis of assertions made by the applicants in the above OAs. In this connection it will be apt to reproduce what their Lordships of the Supreme Court have observed in a similar claim for parity of scales of pay etc. of the Section Officers in the Indian Audit and Accounts department with Section Officers in the Central Secretariat in the case of K. Vasudevan Nair & ORs. etc. etc. V. Union of India & Ors. JT 1990 (3) SC 58:

> "The pay revision by the Government was based on the recommendations of the Third Pay Commission which was an expert body. The extent of material and expertise before the Pay Commission is obvious from Para 22 Part 1 of the report which is as under:
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> 'We devoted 98 days for taking oral evidence of service associations, 69 days for discussions with officials (including representatives of State Governments) and 31 days for taking evidence from non-official witnesses. We held internal meetings on 235 days to discuss various issues and finalise our recommendations.'
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> 17. The Pay Commission took into consideration the statement of Comptroller and Auditor-General of India and all other material placed before it by the petitioners/appellants. We, therefore, see no force in this contention and reject the same."

The Pay Commissions are set up for indepth study and evaluation of the responsibilities and the duties of the posts and to determine the pay scales in the broad socio economic conditions which are peculiar to our country. There is, therefore, no manner of doubt that the difference in the pay scales allotted to

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Editor/Assistant Editor (Films) in the Ministry of Information & Broadcasting and Ministry of Defence is based on the differential perceived and assessed by the Commission in the respective duties and responsibilities on the basis of vast amount of data and material collected and studied by them.

The respondents in their counter vide paragraph 4.3 have explained that the qualifications prescribed for the relevant categories of the posts are not identical as claimed by the applicants. However, the pay Commission is not led to the conclusions by the qualifications prescribed in the Recruitment Rules alone . The Commission forms its conclusion after taking into account the qualifications as prescribed in the Recruitment Rules and other relevant factors e.g. duties, responsibilities, intensity of application of mind and quality and quantity of job requirement.

Admittedly, the scales of pay of Editor/Assistant Editor (Films) in both the Ministries prior to 1.1.1986 were identical and same. This, however, does not mean that the parity obtaining prior to 1.1.1986 would continue for ever. The dynamics of change in a developing country has its own inexorable logic. One has to be alive to perceive the changes taking place make suitable adjustments. The Pay Commissions which are equipped with relevant expertise and skills serve this purpose most eminently.

In the facts and circumstances of the case, we do not see any merit in the applications, which are dismissed.

There will be no order as to costs.

(I.K. RASGOTRA)
MEMBER(A)

(AMITAV BANERJI)
CHAIRMAN

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