

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A.No.640/89

DATE OF DECISION 3.4.91

SHRI ANIL JOSHI & ORS.

APPLICANTS

VS

UNION OF INDIA & ORS.

RESPONDENTS

CORAM

SHRI P.C.JAIN, HON'BLE MEMBER (A)

SHRI J.P.SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANTS

MRS. K.SUBRAMANIAM,

FOR THE RESPONDENTS

SHRI M. L. VERMA

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *no*

JUDGEMENT

(DELIVERED BY SHRI J.P.SHARMA, HON'BLE MEMBER (J))

All the applicants have moved a joint application and are posted as Sub Inspectors (Non technical) employed in the Directorate of Co-ordination Police/National Crime Record Branch Bureau. The grievance of the applicants is that they are being denied equal scale of pay which is being paid to their counterparts in the Central Police Organisation or other Wings of the Ministry of Home Affairs for which they made a representation but to no effect. The applicants have

assailed the order dated 2-1-1987 issued by the Directorate of Co-ordination Police Computers fixing their revised scale of pay with effect from 1-1-1986 on the basis of the recommendations of the Fourth Central Pay Commission.

2. The applicants have prayed for a direction to the respondents to fix the scale of pay of the applicants at par with other Sub Inspectors of the same office (Finger Prints (Division) under the same administrative Head of the Department i.e. in the scale of Rs.1640-2900 or any other scale of pay, that does not lead to any anomaly with effect from 1-1-1986 with all consequential benefits arising therefrom.

3. The brief facts of the case are that the applicants at the time of filing this application were working as Sub Inspectors (Technical and non technical) and getting the pre-revised scale of pay of Rs380-560. The Sub Inspectors (Technical) were also getting an extra amount of Rs.50 as Special Allowance. The applicants initially came on deputation from the various Central Police Organisations (C.P.O.) getting their emoluments in the scale of Rs.380-560 since the recommendation of the Third Pay Commission. It is stated in the application that the applicants should be treated at par with Sub Inspectors in the various Central Police Organizations like C.R.P.F., B.S.F. etc. The Fourth Central Pay Commission in their report recommended a revised scale of

Rs.1400-2300 in replacement of Rs.380-560 for various Central Police Organizations. The Fourth Pay Commission, however, did not make any specific recommendation for the Sub Inspectors in the D.C.P.C., nor did the Commission make any suggestion that they should be treated at par with Sub Inspectors in the other Central Police Organizations under the Home Ministry. The D.C.P.C./N.C.R.B. have arbitrarily fixed the pay of Sub Inspectors in the Directorate in a lower scale of Rs.1320-2040. The Minutes of the staff meeting held by the Director, D.C.P.C. on 18-1-1982 (Annexure 2), a view was taken that the Inspectors and Sub Inspectors in the D.C.P.C. should not only get the same scale of pay but also the Special Pay of Rs.75 and Rs.50 respectively admissible to the Inspectors & Sub Inspectors in the C.B.I. & I.B.

4. It is further stated by the applicants that the Sub Inspectors in the Finger Prints Department under the Ministry of Home Affairs have been allowed the revised scale of Rs.1640-2900. It is stated that denying this scale to the applicants is unreasonable & discriminatory and violative of the principle of equal pay for equal work.

5. The respondents contested the application & filed the reply taking the preliminary objection that the application is misconceived. The respondents have given a chart regarding joining of the applicants & their absorption in the D.C.P.C.

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S.No.	Name	Status	Joining date in D.C.P.C.	Designation in N.C.R.B.	Dt. from which holding the post
1.	Anil Joshi	SI (NT)	28.9.81	SI	28.9.81
2.	Bhag Mal	Hd.Ct.	18.9.76	SI	19.1.87
3.	Harbhajan Singh	Hd.Ct.	19.6.78	SI	19.1.87
4.	K.Yesodharan	SI	16.2.83	SI	16.2.83
5.	S.K.Pandey	SI	30.10.81	SI	30.10.81

6. It is stated in the counter that as per the general recommendation of the Fourth Pay Commission, part of N.C.R.B. after 1-1-1986), the Sub-Inspector in the D.C.P.C. was granted a revised scale of Rs.1320-2040. As regards the Minutes of the meeting of All Staff of the D.C.P.C. with the Directorate on 18.1.1982, it is stated that D.C.P.C. is not the final authority to decide the scales of pay for different grades/posts commensurate with the duties & responsibilities. The Government has decided to grant the scale of Rs.1320-2040 to the Sub-Inspectors in the D.C.P.C. on the basis of the recommendation of the Fourth Pay Commission. It is further stated that the same revised scale has been given to the Sub-Inspectors in the Bureau of Police Research & Development (B.P.R.D.) & S.V.P. National Police Academy. The Finger Print Bureau was on that date a part of C.B.I.  The Sub-Inspectors of C.B.I.  including those in the Finger Prints Bureau were granted the revised scale of Rs.1640-2900 in place

of the old scale of Rs.425-700. It is further stated in the reply that the Government is considering the question of improving the pay scale of Sub Inspectors in the D.C.P.C. Wing of N.C.R.B., even otherwise. There is no violation of the principle of equal pay for equal work as the pay scales of Sub Inspectors in D.C.P.C and F.P.B. of C.B.I. were different prior to 1-1-1986. In view of this the respondents in their reply prayed that the application be dismissed.

7. At the time of hearing the applicants have filed recruitment rules of certain Group C posts under the Ministry of Home Affairs in the Directorate of Co-ordination Police Computers. The method of recruitment is by promotion failing which by transfer on deputation. The recruitment criteria given in col.11 of the recruitment rules is as follows:-

"i) By promotion: From among officers of the rank of Head Constables with at least three years regular service in the grade of which at least a period of two years has been spent in the Directorate of Coordination Police Computers.

ii) By transfer on deputation:

a) Sub-Inspectors (Technical): Officers holding analogous posts in the State Police Forces or in the

Central Police Organisations including Bureau of Police Research & Development, Central Finger Prints Bureau, Directorate of Co-ordination Police Wireless, and having experience in the field of Police Wireless/telecommunications set up either as mechanics or as Radio Operators); or from among officers of the rank of Head Constables of State Police Forces, Central Police Organisations, including Bureau of Police Research and Development, Central Finger Prints Bureau, Directorate of Co-ordination Police Wireless, who have put in atleast three years of service.

b) Sub-Inspectors (Non-Technical): Officers holding analogous post in the Central Police Organisation including Bureau of Police Research and Development, Central Finger Prints Bureau, Directorate of Co-ordination Police Wireless or from among officers of the rank of Head Constables or State Police Forces, Central Police Organisations, etc. who have put in at least 3 years of service.

(period of deputation not exceeding five years)"

8. The applicants have also filed the extract of pages NO. 60 to 63 from Swamy's Compilation of Central Civil Services Revised Pay Rules (Fourth Pay Commission) showing the different pay scales with posts including those of Sub Inspectors, under the Ministry of Home Affairs in I.B., in B.S.F., I.T.B.P., C.I.S.F. etc. An extract of the 1st Schedule of Group D,C & B part A of the Fourth

Pay Commission has also been filed showing the replacement scale of Rs. 380-560 to Rs.1320-2040.

9. We have heard the learned counsel of the parties at length and have gone through the record of the case. The main grievance of the applicants is that their pay scale is not equivalent to the pay scales given to Sub Inspectors posted in Central Police Organisations i.e. I.T.B.P., C.R.P.F., C.I.S.F., B.S.F. It is argued by the learned counsel that the nature of duties of the Sub Inspectors in D.C.P.C. are almost the same as those of the Sub Inspectors who are posted in Central Police Organisations. The Sub Inspectors in Central Police Organisations have been given the revised pay scale of Rs.1400-2300. The Sub Inspectors in Intelligence Bureau as well as in Finger Prints Bureau were having a pre-revised scale of Rs.425-600. The Sub Inspectors in B.S.F., I.T.B.P. C.R.P.F., C.I.S.F. were in pre-revised scale of Rs.380-560 like the applicants. It is not evident whether they were getting a Special Pay or not. The Fourth Pay Commission has specifically recommended the revision of their pay scale to the new pay scale of Rs.1400-2300 but without any Special pay. In the case of the applicants the Special Allowance of Rs.50/- which was payable to technical Sub Inspectors was also not recommended to be paid to them.

10. The doctrine of "equal pay for equal work" is applicable in those cases where the employees are equal in every respect. If such employees are denied equality in matters relating to the scales of pay then the Court should not fail in granting them the equal scales of pay. The applicants in the present case had to show that their mode of recruitment, the work and duties performed by them and the responsibilities owned by them in the course of their employment are analogous to the ones in the case of similarly situated other employees under the same employer in different Wing. The doctrine is not an abstract one nor it is expressly declared as a fundamental right. Article 39(d) read with Articles 14 and 16 of the Constitution of India enjoins the State or Union not to deny a person equality before law in matters relating to employment and this includes remunerations.

11. Against this, it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the post concerned. If the classification has a reasonable nexus with the objective sought to be achieved, i.e., efficiency in the administration, the State would be justified in prescribing different pay scales. The applicants in their application have not given any comparative chart of duties to show that their duties are similar to those of Sub Inspectors in the Central Police Organisations.

The recruitment Rules filed by the applicants also do not help in that regard. The matter was also before the Fourth Pay Commission but there has not been any specific recommendation for them. The respondents have replied to their representation informing them that their matter is under consideration in the Ministry of Home Affairs (Annexure 6). In para 4.6 of the Rejoinder to the counter of the respondents it is stated that the nature of work of the applicants is arduous like that of the other Sub Inspectors in the C.P.Os.

12. The learned counsel for the applicants placed reliance on the case of Randhir Singh versus of Union of India AIR 1982 SC P.879. That was a case relating to drivers of R.P.F. and Delhi Police where it was held that the drivers in the Delhi Police are also entitled to the similar remunerations as are being paid to the drivers engaged by the same employer in R.P.F. The similar view has been taken by the Hon'ble Supreme Court in Bhagwandass versus State of Haryana AIR 1987 SC P.2049. AIR 1988 SC P.1504 Jaipal Vs. State of Haryana. 1986(1) Sec.637 Dharmendra Chawla 4009. AIR 1985 SC 1124 V.J.Thomas Vs. Union of India. In all these cases the Hon'ble Supreme Court approved the principle of "equal pay for equal work" but there were circumstances which prima facie warranted that the employees were similarly situated and were discharging same and similar functions in their duties. The Hon'ble

Supreme Court, however, in a number of other cases further analysed this doctrine and held that it is not of universal application. In Federation of All India Customs and Excise Stenographers Association versus Union of India, AIR 1988 SC P.1291, the doctrine was not held applicable on the ground that the functional requirement of the work done, training and responsibility prescribed for the two posts were substantially different.

13. In State of U.P. versus J.P. Chaurasia, AIR 1989 SC P 19 the Hon'ble Supreme Court held as follows:-

"primarily it requires among others evaluation of duties and responsibilities of the respective post. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees of performance. The quantity of work may be the same but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally

accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

14. The same view has been expressed by the Hon'ble Supreme Court in Umesh Chand Gupta Vs. DNGC & T.L.Gautam Vs. State Bank of Patiala & Ors. reported in the same Journal at page 29 & 31.

15. The applicants had made representation to the respondents sometime in April, 1988 (Annexure 3 to Annexure 5). The respondents by the letter dated 16-5-1988 informed them that the revision of the pay scales of the applicants was under consideration of the Government. In the aforesaid letter (Annexure 6) it is also mentioned that the Ministry of Home Affairs will inform no sooner a decision is taken in the matter. However, it is clear that no decision has yet been taken by the respondents. In the reply filed by the respondents, in para 4, it is stated that the Government is considering the question of improving the pay scales of Sub Inspectors in the D.C.P.C. Wing of N.C.R.B. even otherwise, particularly in view of the fact that the Fourt Pay Commission, did not recommend the same scale of pay for the Sub Inspectors in the D.C.P.C. as has been recommended in some of the Police Organisations like C.B.I. In some of the cases the scales of pay before the revision of the pay

scales by the Fourth Pay Commission, particularly of Finger Prints Bureau of C.B.I., were different than that of Sub Inspectors for D.C.P.C. In view of the above facts the Fourth Pay Commission in their wisdom has not recommended a specific scale for the Sub Inspectors in the D.C.P.C. and normally it is accepted that they would have considered fit to do so, in that situation the Commission would have been satisfied itself about non-equivalence of posts regarding responsibilities and duties in D.C.P.C. and other Central Police Organisations, for whom they have recommended definite higher pay scales. In the above circumstances after the authority of J.P.Chaursia (supra) it shall not be proper to tinker with such equivalence. The applicants have not made any specific allegation against the Fourt Pay Commission nor they have placed any relevant material/worthwhile date for the consideration regarding revision of their pay scales on the analogy of the pay scales of Sub Inspectors in Central Police Organisations. The Fourth Pay Commission in para 7.35 of the report in Chapter 7 under the Head "pay determination" considered the principle of equal pay for equal work by observing that the pay should be equal to the value of the work done by the employee. When such an expert body did not make definite recommendation in the case of the

applicants then without any material before this Tribunal the relief claimed by the applicants that their pay scale should be equated with that of the Sub Inspectors of Central Police Organisation cannot be accepted.

16. Regarding the point of discrimination the respondents in their reply stated in para 4.7 that the same pay scale has been given to the Sub Inspectors in the Bureau of Police Research and Development and S.V.P., National Police Academy. This cannot be, therefore, a case of discrimination. In the rejoinder filed by the applicants in para 4.5 of the rejoinder have not denied this fact. What the applicants stated is that two wrongs cannot make a right.

17. Having given a careful consideration to the facts and circumstances of the case we are of the opinion that the application does not deserve any interference by the Tribunal and the same is disposed off with the direction that the respondents shall consider the matter of the revision of the pay scales of the applicants in pursuance of their own letter dated 16-5-1988 (Annexure 6) where they have assured the applicants of reconsideration of their pay scales.

The parties are left to bear their own costs.

*Jainee*  
(J.P. SHARMA) 3/4/91  
MEMBER (J)

*Chu 3/4/1991*  
(P.C. JAIN)  
MEMBER (A)