

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1271/88

198

T.A. No.

DATE OF DECISION 30.11.90Shri T.A. Subramanian, Petitioner

Shri S.C. Gupta, Sr. Counsel Advocate for the Petitioner(s)  
with Shri L.R. Goel, Advocate  
Versus

Union of India & Ors. RespondentShri M.L. Verma, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.C. Jain, Member (Administrative)

The Hon'ble Mr. J.P. Sharma, Member (Judicial)

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

MGIPRRND-12 CAT/86-3-12-86-15,000

*J.P. Sharma*  
( J.P. Sharma )  
Member (Judl.)

*P.C. Jain*  
( P.C. Jain )  
Member (Admn.)

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Central Administrative Tribunal  
Principal Bench: New Delhi.  
.....

Regn.No.OA-1271/88

Date of Decision:

Shri T.A.Subramanian

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

For the applicant

... Shri S.C.Gupta, Sr.Ld.  
counsel with Shri L.R.  
Goel, Advocate.

For the respondents

... Shri M.L.Verma,  
Advocate.

CORAM: Hon'ble Shri P.C.Jain, Member (Administrative)  
Hon'ble Shri J.P.Sharma, Member (Judicial).

JUDGEMENT

(Delivered by Hon'ble Shri J.P.Sharma)

The applicant, since retired, was posted as Director General, Bureau of Police Research & Development, (BPR & D), New Delhi, and has filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the fixation of his pay at Rs.7600/- instead of Rs.8000/-, or alternatively his pay having not been fixed with effect from 1.1.1986 in the grade of Rs.7600-8000/- being allowed to be drawn by his juniors in the IPS cadre.

2. The applicant has prayed for the relief that a direction be issued to respondent No.1 to fix the pay at Rs.8000/- or alternatively in the pay scale of Rs.7600-8000/- with effect from 1.1.1986 with all benefits of pay and allowances as well as the retirement benefits.

3. The brief facts of the case are that the applicant is of the 1952 batch of Indian Police Service (IPS) and was allocated to Assam-Meghalaya cadre. Because of the meritorious record of service, the applicant occupied various posts before being appointed as Director General, BPR&D in November, 1986. He was posted earlier as Inspector General (I.G.) Assam with effect from January, 1986 and before that as Director General, Vigilance and Anti-Corruption, Assam since September, 1984. The last posting of the applicant had been at Delhi, as D.G./BPR&D. At the time of his

posting in November, 1986 in the pre-revised scale, the applicant was drawing the salary of Rs.3250/- (fixed). As I.G., Assam, with effect from January, 1986, the applicant was drawing the salary of Rs.3000/- per month. The IPS officers recruited on all India basis, though allocated, after recruitment, to various States, continue to remain All-India Officers. Their All-India seniority is published from time to time. The Indian Police Service (Cadre) Rules, 1954 govern the terms and conditions of the services of such IPS Officers. These rules are framed under Section 3(1) of the All India Services Act, 1951. Rule 2(a) of IPS(Pay) Rules, 1954 defines 'Cadre' and 'Cadre posts' as having the same meaning respectively as is assigned to them in the IPS(Cadre) Rules, 1954. Schedule III(c) attached to the IPS(Pay) Rules, 1954 specifies posts carrying pay above the Time-Scale pay, under the Central Government when held by members of the Service. This part includes 12 Central Organisations, as follows: -

1. I.B. (Intelligence Bureau)
2. CBI (Central Bureau of Investigation)
3. S.V.P. National Police Academy.
4. B.S.F. (Border Security Force).
5. C.R.P.F. (Central Reserve Police Force)
6. ITBP (Indo-Tibetan Border Police)
7. CISF (Central Industrial Security Force)
8. BPR&D (Bureau of Police Research and Development)
9. Directorate of Coordination Police Computers.
10. NSG (National Security Guard)
11. N.C.R.B. (National Crime Research Bureau)
12. R.P.F. (Railway Protection Force).

There is another body of rules called the IPS (Fixation of Cadre Strength) Rules, 1955. In these rules there is a provision of 40% reserve for Central posts for IPS officers. Thus, when nearly half of the strength of IPS officers to whichever State they may happen to be allocated, is entitled to be posted to Central posts mannable by police officers, there has to exist some definite and uniform way, free from arbitrariness and discrimination for filling up of this Central Reserve. According to the applicant, this must be done in a manner governed not by arbitrariness but by fair

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guidelines. The Government of India have given several decisions that neither a post declared equivalent to a post included in the pay schedule nor a post in respect of which such declaration is just dispensed with becomes a cadre post. This means that the posts which are already in Schedule 'C' attached to the Pay Rules are IPS allotted cadre posts. According to the applicant the posts of this cadre must be filled on the basis of the all-India seniority and unless an officer is found or declared not to be fit for these posts, he ought not to be ignored for appointment thereto.

4. Prior to the recommendations of the 4th Pay Commission there were two scales of DGs of Police in various States and Organisations. One was Rs.3000/-(fixed) and the other was Rs.3250/-(fixed). The posts of Director CBI and DGs. of CRPF, BSF, BPR&D carried the pay scale of Rs.3250/- per month (fixed) while the posts of other DGs carried a pay of Rs.3000/-(fixed). In fact, in July, 1979 the President had issued a declaration by which the post of Director, BPR&D, was declared as equivalent to the post of Director, CBI giving them an identical pay-scale, as follows: -

"In pursuance of Rule 9 of IPS (Pay) Rules, 1954, in status and responsibility, this upgraded post of Director/BPR&D is declared equivalent to the post of Director/CBI which figures in Schedule III(C) of IPS (Pay) Rules, 1954." (Annexure-A)

The 4th Pay Commission has recommended that for the five Central Police Organisations, viz. BSF, ITBP, CRPF, CISF and Assam Rifles and two similar organisations, viz. the Coast Guard and the RPF, the top posts should get a fixed pay of Rs.7600/- per month. The Director, CBI and the Director, IB were treated separately and for both of them, a recommendation of a fixed pay of Rs.8000/- per month was made.

....4/-

However, the Central Government made certain changes in the above recommendations giving D.G./BSF and DG/CRPF Rs.8000/- (fixed) in place of Rs.7600/-. The DGs of the State Police Forces have been <sup>given</sup> running scale of Rs.7600-8000/- in bigger states and Rs.7300-7600/- in smaller States. Thus, it will be seen that the DGs. of Police were divided in four categories 1) Director, <sup>and</sup> IB/ <sup>and</sup> CBI, <sup>and</sup> BSF and CRPF getting Rs.8000/- (fixed), 2) DGs of CPOs other than BSF, CRPF, namely, ITBP, CISF, RPF Rs.7600/- (fixed), 3) <sup>4</sup> DGs of bigger States Rs.7600-8000/- and <sup>4</sup> DGs of smaller states Rs.7300-7600/-.

5. The grievance of the applicant, therefore, is that the post of DG/BPR&D has been given a fixed pay of Rs.7600/-p.m while the post in no way has the status and responsibility less than the post of DGs of other Central Police Organisations where the pay of Rs.8000/- per month has been fixed. It is said by the applicant that there was no warrant or justification for not giving the same pay to the Director, BPR&D, particularly when its earlier declaration of equivalence made on 31.7.1979 still holds good (Annexure-A). Further, in para 8.9 of the report of 4th Pay Commission, it has been said that in case of posts not specially mentioned in the Report, their equalities should be maintained. This principle when applied to the post of DG/BPR&D, which is not specifically dealt within the report, according to the applicant, obviously means that its equation with the post of Director/CBI must be maintained, and consequently its pay must be made Rs.8000/-(fixed) as in the case of Director/CBI.

6. The applicant has also pointed out certain cases of junior officers who have been allowed to draw in the revised pay scale more pay than the applicant as indicated in the given below:

| Name         | Batch year | Cadre            | Pay scale | Present pay |
|--------------|------------|------------------|-----------|-------------|
| L.G.J.Pandit | 1962       | DG/Police, J & K | 7600-8000 | Rs.8,000/-. |

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2. Shri I.B.Negi 1953 U.P.Cadre, D.G.Himachal Pradesh Rs.7600-8000/-
3. Shri K.K.Zutshi 1959 Haryana Cadre D.G.Nagaland Rs.7600-8000/-
4. Shri H.R.Swan 1957 Haryana cadre D.G.Haryana Rs.7600-8000/-
5. Shri Janak Kumar 1957 M.P.Cadre D.G.Mizoram Rs.7600-8000/-
6. Shri Jamil Mohd. Qureshi 1956 M.P.Cadre D.G.Bihar Rs.7600-8000/-

7. It has been further pointed out by the applicant that the basis of higher remuneration seems to be entirely dependent on the element of chance and <sup>he has</sup> cited the following instances:

- i) Shri S.D.Pandey, DG/CRPF, From 1.1.86, Rs.8000/- (retired w.e. 31.3.88)
- ii) Shri P.K.Mallick, Spl.Secretary, M/O H.A. Rs.8000/- from 1.1.87
- iii) Shri M.K.Narayanan, Dir. IB Rs.8000/- from 1.4.1987
- iv) Shri H.P.Bhatnagar, D.G. BSF, Rs.8000/- from 1.8.87
- v) Shri C.M.Radhakrishnan Nair, Spl. Director CBI Rs.8000/- from 1.11.1987.
- vi) Shri A.K.Verma, Spl.Secretary, RAW Rs.8000/- from 1.8.87.
- vi) Shri R.Govindarajan, Chairman, JIC Rs.8000/- from 1.11.1987.
- vii) H.A.Barari Retired from 31.3.87 Rs.8000/-
- viii) Shri Khandelwal, retired from 30.11.87 Rs.8000/-

The applicant has stated that he was already a Director General when many of the above noted officers who are now given the pay of Rs.8000/- were not even promoted as DGs at that point of time. Thus, the applicant has also put up his case on the principle of next below rule.

8. It has also been stated that earlier also when a junior had been given a higher scale of pay, ~~than~~ <sup>as</sup> the pay of the senior was stepped up, so to be equal to that of the junior. The case of Shri A.Anandaram, DG, CISF has been cited, who was given the scale of Rs.3000-3500 (pre-revised) w.e.f. 1.11.1984 on the ground that his junior <sup>Shri</sup> H.A.Barari, Director, IB <sup>had</sup> joined on the post carrying the scale of Rs.3000-3500/- (Pre-revised). It has been further stated that proviso to Rule 6 and Rule 9 of the IPS Pay Rules, 1954, specifically lays down that no one shall be deputed to a post carrying a

prescribed pay which is less than, or, a pay scale the maximum of which is less than the basic pay of the concerned officer <sup>would have</sup> which he drawn in the State cadre but for his deputation. Thus, the pay scale of any such officer shall not at any time be less than that what he would have drawn had he not been appointed to a deputation post. The Government has <sup>the</sup> authority of giving the seniors the pay which is not less than that of the juniors. In fact when such a situation arose the pay of the senior was immediately raised <sup>so</sup> as to be equal to that of the junior.

9. The applicant has also stated that in pre-revised pay, in the amendment to Schedule IIIA by O.M. dated 6.4.87 <sup>thereof</sup> vide para 9/ for the figure Rs.3000/- <sup>the</sup> figures 7600-100-8000 <sup>according to</sup> he have been substituted. In fact, <sup>the</sup> applicant <sup>had</sup> been drawing a fixed salary of Rs.3250/- and in no case the revised <sup>of pay</sup> scale <sup>should</sup> be ~~in the revised scale~~ less than Rs.7600-8000/-. The applicant has also quoted certain instances in para Z1 to Z4 at page 22 of the application.

10. The applicant has also filed the guidelines (Annexure-G) dated 28th April, 1988 regarding promotion to <sup>posts</sup> senior scale <sup>circulated</sup> by the Ministry of Home Affairs to the Chief Secretaries of all States. Thus, the applicant has made a case that the pay of the applicant should have been fixed at Rs.8000/- <sup>per</sup> as <sup>the</sup> 4th Pay Commission report or in the alternative in the pay scale of Rs.7600-8000/-.

11. The respondents have contested the application and in their reply they have stated that the applicant drew the pay of the post to which he was appointed and he drew less pay only because he was posted to the post which carries less pay. The seniority in all India gradation list does not confer the right of appointment to a particular post carrying a particular pay. The appointment is based on merit with due regard to the seniority as provided under the Rules. The respondents have cited, sub-rule (2A) of Rule 3 of the IPS (Pay) Rules, 1954 which lays down that "Appointment to

the Selection Grade and to posts carrying pay above the time scale of pay in the Indian Police Service shall be made by selection on merit with due regard to seniority." It is further stated that prior to issue of Notification dated 7.11.1985 amending IPS (Pay) Rules, 1954, the post of Director BPR&D was not included in the Schedule and therefore, incumbent of post drew pay by virtue of equation in terms of Rule 9 of the IPS(Pay) Rules. But after issue of amendment, the post of Director, BPR &D was included in the Schedule with the pay of Rs.3250/-(fixed) and after 4th Pay Commission Recommendations the pay of Director, BPR &D was revised to Rs.7600/-(fixed) in the revised scale of pay w.e.f. 1.1.1986. In view of this, equation dated 31.7.1979 referred to by the applicant has no relevance after the post was included in III Schedule and there is no reason for allowing pay to Director, BPR &D equal to the pay of Director, CBI. As regards the pay allowed by the State Government to the incumbents of Director General of Police it is stated that it of their State, is as a matter solely within the domain of the State Government. As regards the pay of Rs.3000/- allowed to officers <sup>at</sup> the Centre, junior to the applicant, they drew that pay by virtue of their appointment to the post which carried a pay of Rs.3000/- and appointments to these posts are made on merits with due regard to the seniority. When the <sup>applicant</sup> joined the Central deputation post, he was not allowed less pay than the pay he was drawing prior to his appointment to the post and so Rule 9 as well as proviso to Rule 6 of the IPS(Pay) Rules, 1954 quoted by him are out of context. For the officers working at the Centre, next below rule benefit is not admissible to them in supertime scale and above. The amendment in Schedule III(A) quoted by the applicant is <sup>stated to be</sup> for a post under the State Government and not under the Central Government. It is further stated that the seniority in All India Gradation list does



not confer any right of appointment to a particular post carrying a particular pay and the appointment is based on merit with due regard to the seniority as provided under the Rules. In view of the above, it is stated by the respondents that the applicant is not entitled to any relief and the application is liable to be dismissed.

12. We have heard the learned counsel for the parties at length and have gone through the record of the case. The learned counsel for the applicant has relied on the doctrine of 'equal pay for equal work', inasmuch as the applicant has been working as Director, BPR&D since November, 1986, but he has been given a fixed pay of Rs.7600/- while the Director, CBI has been given a fixed pay of Rs.8000/- which in itself is discriminatory as his post had been declared in status and responsibility, as equivalent to the post of Director, CBI. Both belong to IPS service and are posted in the Central Organisations and he was senior to him. The argument of the learned counsel is mainly based on a number of authorities mainly relying on the case of Shri Randhir Singh Vs. Union of India, AIR 1982 SC 879. This case pertains to Constable Drivers and it was directed <sup>that</sup> they should be paid pay equal to the Drivers in RPF. However, in the present case, firstly, the applicant belonged to Assam and Meghalaya cadre and secondly the posts in the Central Police Organisation as well as on other posts under the Government of India are manned by persons belonging to IPS Cadre. There is selection on merit-cum-seniority.

13. The doctrine of 'equal pay for equal work' is not expressly declared as a fundamental right under the Constitution. But it is no more an abstract doctrine. Article 39(d) read with Articles 14 and 16 of the Constitution enjoin the State not to deny any person equality before law in matters relating to employment and this include the remuneration. Where all conditions are equal and persons

holding identical posts perform identical and similar duties under the same employer should not be treated differently in the matter of their pay. The doctrine of 'equal pay for equal work' is not an abstract one, it is open to the State to prescribe different scales of pay for different posts having regard to educational qualifications, duties and responsibilities of the posts. The doctrine of 'equal pay for equal work' is applicable when employees holding the same rank, performing similar functions and discharging similar duties and responsibilities are treated differently. The application of this doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay. Besides, Randhir Singh's case (supra), the Hon'ble Supreme Court has also enforced the Doctrine of 'equal pay for equal work' in Dharmender Chamoli Vs. Union of India, 1986(1)-SCC 637, V.J. Thomas Vs. Union of India, AIR 1985 SC page 1124, Bhagwan Dass Vs. State of Haryana, AIR 1987 SC 2049 and Jaipal Vs. State of Haryana, AIR 1988 SC page 1504. In all these cases, there was a hostile discrimination between two sets of persons discharging the same duties and responsibilities and working under the same employer. All these persons are equal in respect of their qualifications, the manner of recruitment and the work which was being done by them. However, it has been observed in all these cases that 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 reasonable nexus with the objective sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scales but if the classification does not stand the test of reasonable nexus and the classification is founded on unreal and unreasonable basis, it will be violative of Articles 14 and 16 of the Constitution. Equality must be among the equals, unequals cannot claim equality.

14. The Hon'ble Supreme Court found that the said doctrine is not universally applicable in all cases. In AIR 1988 SC page 1291, Federation of All India Custom and Excise Stenographers Association Vs. Union of India, the doctrine was not held applicable on the ground of the functional requirement of the work done, training and responsibility prescribed for the two posts. Again in State of U.P. Vs. J.P. Chaurasia, AIR 1989 SC page 19, the Hon'ble Supreme Court held that "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  
The  
extraneous consideration." /same view has been expressed in Unesh Chand Gupta Vs. O.N.G.C., AIR 1989 SC 29 and.

in Tarsam Lal Gautam Vs. State of Bank of Patiala & Ors., AIR 1989 SC 31. In J.P. Chaurasia's case as well as in Tarsam Lal Gautam's case (supra) there were two scales prescribed which were for consideration of the Hon'ble Supreme Court for similarly situated persons.

15. It is, therefore, permissible to prescribe two different pay scales in the same cadre on the basis of selection on merits with due regard to the experience and seniority. In such a situation the principle of 'equal pay for equal work' will not apply.

16. In service matters, merit and experience could be proper basis for classification to promote efficiency in administration. The applicant has filed guidelines regarding promotion to supertime scale posts issued by the Ministry of Home Affairs by letter dated 28th April, 1988 (Annexure-G, page 121 of the paper-book). In guidelines in Para IV part C provide that selection should be based on merit, with due regard to seniority as provided in sub-rule 2A of Rule (3) of the IPS (Pay) Rules, 1954 and the suitability of the officers to hold supertime scale posts may be judged by evaluating their character roll record as a whole, and general assessment of their work. The applicant was posted as Director, BPR&D in November, 1986. He has given details of certain officers who are junior to him and were being paid higher salary. The applicant has cited the instances of S.D. Pande, DG, CRPF, P.K. Mallick, Special Secretary, Ministry of Home Affairs, M.K. Narayanan, Director, I.B., M.P. Bhatnagar, Director General, BSF, Shri C.M. Radhakrishnan Nair, Special Director, CBI etc. who are junior to him and they have been allowed to draw higher pay than the applicant. The applicant has not alleged any malafide in his appointment nor has he at any time assailed that he was not considered for such post. What the applicant has asserted is that the post of higher remuneration seems to be entirely dependent on the element of chance

The main question now to be seen is that the applicant is equating various posts under the Central Organisations or Central Police Organisations contending that the Pay Commission has not correctly equated those posts. Prior to the Fourth Pay Commission, the post of Director CBI and DG, BPR&D carried the fixed pay of Rs.3250/- per month. After the recommendations of the 4th Pay Commission the fixed pay of Rs.3250/- has been changed to Rs.7600/- (fixed). The applicant had come as DG, BPR&D prior to the implementation of the recommendations of the 4th Pay Commission. The learned counsel for the applicant relying on the declaration issued by the President by which the post of Director, BPR&D was declared equivalent to the post of Director, CBI and also as the fact that the pay of Director, BSF, CRPF and CBI has been fixed as Rs.8000/- per month, so there is no reason why the same pay should not be given to the post of DG, BPR&D. In fact, determination of the equivalence of posts is the concern of expert bodies: CRPF, BSF, CISF and ITBP are now treated as members of the Armed Forces. BPR&D was created to improve all round competency of the Police Force in the country sometimes in 1973 and has been assigned the following types of work. They work in the following three Divisions: 1) Research, Statistics and Publications Division, 2) Development Division and 3) Training Division. All these facts were before the 4th Pay Commission when it was seized of the matter. The 4th Pay Commission has clearly observed that pay should be equal to the value of the work done by the employee and also considered the principle of 'equal pay for equal work' in para 7.35 of the report in Chapter 7 under the Head of "Pay determination". Thus, as held in the case of J.P. Chaurasia and T.L. Gautam (Supra), the work of the expert body cannot be taken up by the Tribunal in equating the posts and particularly in the present case where there is no data available which should have been demonstrated by the applicant by expressly providing

the particular sphere of work in each of those posts of Heads of the Department with which equivalence has been claimed. Thus, the principle of 'equal pay for equal work' cannot apply to the present case.

17. The learned counsel for the applicant has also referred to the order of the President making the post of Director, BPR&D equivalent to the post of Director, CBI and in this connection he has referred to the authority, E.P.Royappa Vs. State of Tamil Nadu and Ors., 1974(4)SCC page 3 and also to Gangbir Singh Vs. Union of India & Ors, 1982(2) SLR page 736. In view of the fact that now the post of DG, BPR&D is included in Schedule III(c) of the IPS(Pay) Rules, 1954 as amended upto date, the argument of equivalence of posts cannot be given any weightage. It was only relevant till the post of DG, BPR&D was not included in Schedule III(c) of the IPS (Pay) Rules, 1954. What the learned counsel for the applicant has argued is that equivalence of posts in terms of functional and co-equal responsibilities can be seen by the Court and mere inclusion in the Schedule will not affect the right of the Court to go deep into the matter. The learned counsel also referred to the authority of Sohan Lal and Ors. Vs. State of Himachal Pradesh, reported in 1988(4) SLJ page 21 regarding equivalence of posts, as in the present case this order of the President was issued as far back as in 1979, but the authority is not applicable to the present case as the post has been included in Schedule III(c) of IPS(Pay)Rules, 1954. This fact is further cleared by virtue of the amendment made in the IPS(Pay) Rules, 1954 by para 9 in Schedule III(a) wherein Column No.3 for the figure Rs.3000/- the figures Rs.7600-100-8000/- are substituted by the O.M. dated 13.3.1987. In view of this fact the claim of the applicant that from January, 1986 his pay should not have been Rs.7600/-(fixed)

but it should have been in the scale of Rs.7600-100-8000/- as no one can be posted on deputation basis in Central Organisation at a loss in emoluments. In fact, the applicant has claimed equivalence with the post of Director CBI and relied on Rule 9(1) of the IPS (Pay) Rules, 1954 which lays down that no member of the service shall be appointed to a post other than a post specified in Schedule III unless the State Government concerned, in respect of a post under its control or the Central Government in respect of a post under its control, as the case may be, makes a declaration that such post is equivalent in status and responsibility to a post specified in the said Schedule. However, subsequently, by issue of an amendment, post of Director, BPR&D was included in the Schedule with pay of Rs.3250/- (fixed) prior to coming into force of the 4th Pay Commission Report. The applicant, therefore, cannot take any benefit of the order of equivalence issued by the President in July, 1979 equating the post of Director BPR&D with Director, CBI.

18. The learned counsel argued with some force that if the applicant had not been appointed as Director, BPR&D and had remained in the State cadre then in that event too his pay could not have been less than what had been drawn by his juniors in the said cadre and the applicant has cited the instances of Shri B.C.Sarma, M.R.Chaudhury, N.Changkakoty and Shri M.I.S.Iyer, all of them functioned as DG, Police Assam in the scale of Rs.7600-8000/- <sup>during</sup> different periods and all of them are junior to him being of subsequent batches of IPS. Assam and Meghalaya have a joint cadre and this fact has not been denied by the respondents in the counter and they only stated that the post of DG Police Assam is a post in Schedule III(a) whereas the applicant had worked in the post in Schedule III(c) i.e. the post at Centre. Thus, the respondents have not denied that had the applicant remained as DG Police in his own State then in that event on 1.1.86,

according to the 4th Pay Commission, his pay would have been fixed in the time scale of Rs.7600-8000/- and the applicant has claimed this scale also by way of alternative relief.

19. The learned counsel for the applicant has also laid some stress that the 4th Pay Commission has recommended equal scales of pay for all DIGs and IGs of all CPOs and also for RPF. It is argued as to why there should be discrimination at the rank of DG only as DG, BSF and DG, CRPF have been recommended the same scale. It is further stated that before the setting up of the Pay Commission, for all the posts of DGs. the Ministry of Home Affairs recommended uniform scale with a flexibility to cater for seniority. This leg of argument has already been dealt with while considering the principle of 'equal pay for equal work' and it is not for the Court to take the matter equating various heads of the departments of CPOs but it is the function of the expert bodies like Pay Commission etc.

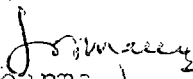
20. The learned counsel for the applicant also referred to stepping up of the pay of the senior to the same extent which a junior is getting and in this connection he has referred to K.C.Issac Vs. Secretary, Central Board of Direct Taxes & Ors., 1990(12)ATC 70. However, in the present case the question of stepping up does not arise as in the Central Organisations or the Central Police Organisations, as referred above, the officers are selected and empanelled on the basis of merit with due regard to seniority as well as general awareness and suitability for the post. So, the applicant cannot compare with other heads of CPOs or COs.

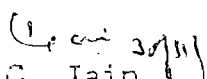
21. In view of the above discussion, we are of the opinion that the applicant is entitled to the fixation of pay in the scale of Rs.7600-100-8000/- with effect from 1.1.1986 and the application to this extent is allowed. Since, the applicant



has retired, he shall be paid all arrears of pay and the <sup>revised</sup> retirement benefits within three months from the date of receipt of a copy of this order. The other reliefs claimed by the applicant are disallowed.

22. The application is disposed of accordingly leaving the parties to bear their own costs.

  
( J.P. Sharma )  
Member (Judl.)

  
( P.C. Jain )  
Member (Admn.)