

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

Date of Decision: 6.2.92

O.A.No.1776/88 -Shri R.K. Gupta & Ors. Vs. U.O.I. & Ors.  
O.A.No.19/89 -Shri Harpal Singh & Ors. Vs. U.O.I. & Ors.  
O.A.No.856/89 -Shri Sudershan Singh & Ors. Vs. U.O.I. & Or

Shri Atul Sharma, counsel for the applicants.

Shri M.L. Verma, counsel for the respondents.

CORAM:

The Hon'ble Mr. Ram Pal Singh, Vice Chairman(J)

The Hon'ble Mr. I.P. Gupta, Member(A)

JUDGEMENT

(of the Bench delivered by  
Hon'ble Member Shri I.P. Gupta)

The issues involved in the three OAs as referred to above are similar. Therefore, they are being dealt with together. The applicants in these OAs joined the services in Central Water Commission, Ministry of Water Resources on the Computer/Statistical side. They were promoted from the posts of Senior Computer to those of Professional Assistant(Statistics)/Statistical Assistant. Some of them are working even at a still higher post of Senior Professional Assistant and Extra Assistant Directors. The applicants have sought the relief for revision of pay scale for the post of Professional Assistant(S)/Statistical Assistant/Research Assistant from Rs.425-700 to Rs.550-900, w.e.f. 01.01.1973.

2. The contentions of the learned counsel for the applicants are briefly that:-

(i) The post of Senior Computer earlier carried the pay scale of Rs.330-560, but out of the posts, 20% were kept in higher scale of Rs.425-700. This differential in pay scale for 80% and 20% was challenged in the Tribunal and in pursuance of the Judgement delivered by the Principal Bench of the Central Administrative Tribunal on 6.9.88 in O.A.1942/88, filed by Shri A.K. Khanna & Ors. Vs. U.O.I., the Senior Computer/ Professional Assistant (petitioners borne on the cadre of Central Water Commission) were deemed to have been placed in the pay scale of Rs.425-700(pre-revised) w.e.f. 1.1.73 or from the date of their appointment as Senior Computer with all consequential benefits. This order was passed by the Central Water Commission in December 1988. Thus the position now is that Senior Computer and Professional Assistant(S)/ Statistical Assistant/Research Assistant are all in the grade of Rs.425-700. The learned counsels pointed out that the feeder post and the promotion post could not be in the same pay scale.

(ii) The Recruitment Rules provide for promotion of Senior Computer to the post of Professional Assistant. These Recruitment Rules were notified on 10.5.72. Therefore, the posts of Professional Assistant is clearly the promotion post for Senior Computers.

(iii) The Punjab and Haryana Court in Harkishen and Anr. Vs. State of Punjab & Anr. (1987(5) SLR 539), decided on

16.9.87, held that the question of pay scales of Patwaris and Assistant Revenue clerk should be referred to the Pay Commission so as to rationalise the pay scales since a junior post and a higher post could not be placed in the same scale of pay.

3. The learned counsels for the respondents contended that:-

(i) The application is barred by limitation since the claim for revision of pay scale from 1.1.73 could not be put forward before the Tribunal in September 1988 or in 1989.

(ii) While it is true that the posts of Senior Computer are the Feeder posts for promotion to the post of Professional Assistant/Statistical Assistant and carry the same pay scale yet there is nothing to justify the same scale of pay as that of the pay scale of the promotional post. In this connection, Ministry of Finance vide OM dated 9.8.88 was quoted, where it was mentioned that whenever appointment to higher post involved the sanction of higher duties and responsibilities and the personal basic pay and the scale of pay of the higher post is identical, the pay might be fixed under FR.22(c).

(iii) The learned counsels cited cases extensively to support that the equation of posts or the equation of pay scales 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. It should not be left to the Tribunal to undertake comparison of posts. One of

the cases cited in this connection was the case of Sadhu Charan Sethi & Ors. Vs. U.O.I. & Ors. (1990(13) ATC 787).

4. While analysing the facts and arguments in the case, we would first deal with the issue of limitation. It is true that the claim for revision of pay scale from 1.1.73 cannot be sustained, if the application is filed in 1988 or 1989. However, there is nothing to preclude such a revision prospectively or from suitable earlier dates as might be permissible under law. It may be mentioned in this connection that the anomaly, namely, the feeder post and the Senior post carrying the same scale of pay has arisen after the judgement of the Tribunal quashing 80% of posts of senior computer in one grade and 20% in the other grade. This judgement was given on 11.4.86 and in pursuance of this judgement, orders were <sup>issued on 6.12.88</sup> by Central Water Commission giving the scale of Rs.425-700. to the petitioners who were all working as Senior Computers.

~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ Attention in this connection is also invited to the judgement in the case of P.L. Shah Vs. U.O.I. and Another (1989(2) SLJ 49). In this case, the appellants subsistence was reduced to 25% in 1982 and the application was filed in 1987 and it was held that no doubt relief relating to period preceding three years from 01.11.1985 could not be given but within three years could be given.

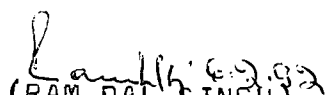
5. Therefore, it will be within the limits of law if the revision is considered atleast from 01.01.1988, if not, from an earlier date, since one of the applications was filed in 1988 and giving the relief pay scale to one and denying to others similarly placed would be irrational.

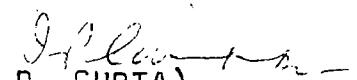
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6. While it is true that the Tribunal should not take upon itself the question of determining equivalence of post or assessing the nature of duties and responsibilities the question of irrationality can surely be brought out. We are supported, in our view, by the Judgement of Punjab and Haryana Court in Harkishen Vs. State of Punjab & Anr. (1987(5) SLR 539), whereat, Hon'ble Court ordered rationalisation of pay scales in the light of observations made. It was also held therein that, it was irrational to place a junior post and higher post in the same scale of pay. The posts of senior Computer is definitely a junior post as compared to that of professional Assistant, since the Senior Computers are promoted to the post of Professional Assistant after rendering three years service in the grade.

7. In the conspectus of the aforesaid facts in the cases referred to above, we direct the respondent to rationalise the pay scales of Professional Assistant to a grade or a scale higher than that of Rs.425-700, which is the scale of senior Computer (feeder post). This rationalisation should be done within a period of four months from the date of receipt of a copy of this order. The rationalisation should take place atleast from 1.1.88 and the pay of the incumbents should be fixed notionally in the higher scale. The actual payments in the rationalised higher scale could take place prospectively. With the aforesaid directions and order, the case is disposed of.

8. There will be no order as to costs.

  
(RAM PAL SINGH)  
VICE CHAIRMAN (J)

  
(I.P. GUPTA)  
MEMBER (A) 6/2/92