

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A.107/88

Date of decision: 29.7.93

N. Bhadran Nair & Ors. ... Petitioners.

Versus

Union of India
through
The Secretary,
Ministry of Finance,
New Delhi & Anr. ... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioners. Ms S. Janani and Shri
Zafar Sadiq, Counsel.

For the Respondents. Shri M.L. Verma,
Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

This case is by Shri Bhadran Nair and Others who are the employees in the Ministry of Information and Broadcasting. They are holding different posts such as Sub Editor in All India Radio, Information Assistant in the Press Information Bureau, Sub Editor in the Publications Divisions, Research Assistant in the Research and Reference Division, Sub Editor in the Directorate of Advertising & Visual Publicity and Sub Editor in the Ministry of Defence. These petitioners were all in the pre-revised scale of Rs.470-750 which has since been revised in accordance with the recommendations of the IVth Pay Commission to Rs.1400-2600 w.e.f. 1.1.1986. The IVth Pay Commission recommended single scale of pay of Rs.1400-2600 to the posts carrying scale of Rs.425-800, 425-750, 440-750, and 470-750. It further recommended that in respect

of the categories of posts in the scale of Rs.470-750 where graduates in science are directly recruited they should be given suitable higher start in the scale of Rs.1400-2600. A representation was made as per Annexure A-5 by the Convener of CIS Grade IV Action Forum dated 13.10.1986 to the Chairman of the Implementation Cell, Fourth Pay Commission, New Delhi praying that they be accorded higher scale of pay of Rs.1640-2900 in place of the pay scale of pay accorded to them, namely, Rs.1400-2600. This representation was examined and a decision was communicated by office memo dated 8/9.1.1987 by which their claim has been rejected. It is in this background that the petitioners have approached this Tribunal for issue of a writ in the nature of mandamus directing the respondents to accord to them the higher pay-scale of Rs.1640-2900.

2. Several arguments were advanced in support of the case put forward by the petitioners. We are not impressed that we should on the facts and materials placed before us take a decision in regard to the according of the proper pay scale as claimed by the petitioners. The materials placed before us are not adequate. As pointed out by the Supreme Court, the Courts and the Tribunals are not well equipped to take a final decision in these matters and that the decision in these matters should be left to be taken by a expert body like the Pay Commission

or a Committee constituted by the Government for that purpose. We are, however, impressed by the arguments of the learned counsel for the petitioners that this is a case which merits a direction for examination of the claim of the petitioners in this behalf for the reasons to be stated presently.

3. The assistants in the Central Secretariat Service who were also given the revised scale of Rs.1400-2600 like the petitioners approached this Tribunal in Original Application No. 1538/87. The Principal Bench of the Tribunal allowed the said application on 23.5.1989 and directed examination of the anomalies pointed out in the said judgement in the matter of according ^{of} proper scale of pay to the Anomaly Committee and to take a decision in the light of their recommendations. In pursuance of the said directions, the matter was got examined by the Anomaly Committee and the Government took a decision as per Annexure M-2 dated 31.7.11990. By the said order, pay scales of the posts included in the Assistant Grade of Central Secretariat Service and Grade 'C' Stenographs of Central Secretariat Stenographers Service were revised to Rs.1640-2900 w.e.f. 1.1.1986. The said order further says that the same revised pay scale shall also be applicable to Assistants and Stenographers in other Organisations like Ministry of External Affairs which are not participating in the Central

Secretariat Service but where the posts are in comparable grades with same classification and pay scales and the method of recruitment through open competitive examination is also the same. Thus, it is clear that the Government had occasion to reexamine the matter of pay scales of Assistant Grade of Central Secretariat Service and Grade 'C' Stenographers of Central Secretariat Stenographers Service. It is necessary to bear in mind that the Assistants as also Stenographers Grade 'C' were also given the revised pay scale of Rs.1400-2600 along with the petitioners in accordance with the IVth Pay Commission. We are informed by the learned counsel for the petitioners that on a rough estimate the number of employees which are benefitted by the order dated 31.7.1990 is more than 4000 and that the total number of persons with which we are concerned is about 250. If such a large section of the employees have been given the benefit of higher scale to those who were also in the same scale as the petitioners subsequent to the filing of the application before the Tribunal, that is undoubtedly a matter for being taken into consideration. We say so also for the reason that in the impugned order rejecting the claim of the petitioners (Annexure-7) dated 8/9.1.1987 one of the reasons assigned is that the Assistants in the Central Secretariat Service and Reporters in the All India Radio were also directly recruited for which the minimum qualification is a University

degree being in the scale of Rs.1400-2600 and there is no good reason for giving a special treatment to the petitioners. In other words, it was a relevant consideration, according to the Government itself as to what was the revised pay scale that was accorded to the Assistant in the Central Secretariat and the Reporters in the All India Radio. It is clear that the position has since changed after the impugned order came to be made as per Annexure-7 as the Assistants in the Central Secretariat as also Stenographers Grade 'C' now have been accorded a higher pay scale of Rs.1640-2900. Another reason given in Annexure A-7 is that it is only Science Graduates who were required to be given a higher start by the IVth Pay Commission in regard to service where the Graduation in Science was an essential qualification such as in Scientific Departments like Department of Atomic Energy and Department of Space. But now we find that by order dated 31.7.1990, a higher scale of pay has been accorded to Assistants in the Central Secretariat and Stenographers Grade 'C' for which posts Graduation in Science is not^a necessary a minimum qualification. Thus, it becomes clear that the reasons which have been given for rejecting the claim of the petitioners by the impugned order dated 8/9.1.1987 have now disappeared in view of the subsequent events that have taken place. Hence, we are inclined to take the view that it is just, fair and reasonable that the claim of the petitioners is examined afresh by an

appropriate committee like the Anomaly Committee and a fresh decision is taken without being in any way deterred by the earlier decision rejecting the claim of the petitioners by the impugned order dated 8/9.1.1987. As we are inclined to direct the respondents to ~~examine~~ ^{afresh} the case of the petitioners, we do not propose to express any opinion on the merits of the contentions put forward by the petitioners' counsel in support of their claim that they deserve a higher scale of pay being accorded to them. They are all to be examined in the light of the directions to be issued by us in this case.

4. For the reasons stated above, this application is disposed of with the following directions:

- (i) The respondents shall get examined the claim of the petitioners for according a higher scale of pay of Rs.1640-2900 by the Anomaly Committee if one exists or by a properly constituted committee of experts in this behalf.
- (ii) The said committee shall examine the matter afresh taking into consideration the reasons advanced by the petitioners in support of their claim as also the subsequent

events which have taken place to which we have adverted to in the earlier part of the judgement.

(iii) The respondents shall take a decision on consideration of the report of the Anomaly Committee or the Expert Committee and pass appropriate order within a period of six months from the date of receipt of a copy of this judgement.

(iv) Parties shall bear their respective costs.


(S.R. Adige)

Member(A)


(V.S. Malimath)

Chairman

'SRD'

300793