

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD**

**OA/21/844/2014**

Reserved on: 19.08.2020  
Pronounced on: 26.08.2020



**CORAM:**

**Hon'ble Mr.Ashish Kalia, Judl. Member**  
**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

D.Bala Krishna, S/o. Late D. Balaiah,  
Aged about 60 years,  
Occ: Retired EME Officer (CIV),  
1 EME Centre, Secunderabad,  
R/o. H.No.25-40/1/1,  
Anantha Saraswathi Nagar,  
East AnandBagh, Malkajgiri,  
Secunderabad.

... Applicant

(By Advocate: Dr. A. Raghu Kumar)

Vs.

1. Union of India rep. by its  
Secretary, Ministry of Defence,  
SenaBhavan, New Delhi.
2. The Director General of EME,  
IHQ of MoD (Army), New Delhi.
3. The Commandant,  
1 EME Centre, Secunderabad.

... Respondents

(By Advocate: Mr.Paravastu Krishna, Addl. CGSC)

**ORDER****Hon'ble Mr. B.V. Sudhakar, Admn. Member**

2. The OA is filed seeking pay parity, counting of pre-entry service, Military service pay, ante-dating promotion, regularising combatant service, grant of increment as on 1.1.2006, CSD facility, Inspection/training allowance, etc.

3. At the outset, when the case came up for final hearing on 19.8.2020, the Learned Counsel for the applicant was questioned as to why the OA should not be dismissed for seeking multiple reliefs. In response, the Ld. Counsel for the applicant has fairly admitted that seeking multiple reliefs is not as per law and hence, pleaded to permit him to argue for seeking the relief in regard to parity of pay scales between Non-Secretariat and Secretariat staff in the Asst. Cadre. Agreeing to the same, the OA was heard.

4. Brief facts of the case are that the applicant joined the respondents organisation as Canteen Accounts Clerk on 24.2.1978 and worked as such till 6.11.1983. From 7.11.1983, he started working as LDC in the respondents organisation. Thereafter, he was promoted as UDC on 1.4.1995 and as Assistant (Non-Secretariat Staff) on 1.7.2003. His last promotion was to the cadre of Accounts Officer and in this position applicant retired on 31.1.2014. The applicant has sought multiple reliefs and among them, the main grievance is in regard to non-parity between the pay scales of

Secretariat and Non-Secretariat staff in the Asst. cadre, which the Ld. Counsel pleaded to be adjudicated upon.



5. The contentions of the applicant are that, for the Non-Secretariat Staff injustice has been done in fixing the pay scales by the Pay Commissions vis-à-vis Central Secretariat Staff, the latter being given higher pay scales, though both the cadres discharged same functions and shouldered equal responsibilities. Consequent to the 6<sup>th</sup> CPC recommendations, the Central Secretariat Staff were placed in the Pay Band of Rs.6,500- 10,500 without extending such benefit to the Non Secretariat Staff though 6<sup>th</sup> CPC has observed to usher in parity between the personnel employed in the field offices and those working in Secretariat. Applicant has cited DOPT OM dtd. 5.9.2006 and Dept. of Expenditure OM dtd.13.11.2009, in support of his contentions.

6. Respondents, in their reply statement, have contended that the pay scales of Rs.5,000-175- 8,000 and Rs.5500-175-9,000 were merged with the pay scale of Rs.6500–200-10,500, but not with the pay scale of Rs.7450-125-11,500 as claimed by the applicant. Applicant had ample opportunities to present his case before 6<sup>th</sup> CPC or the relevant Anomalies Committee. The 7<sup>th</sup> CPC is being implemented presently and that the applicant should have represented long back to the appropriate authority. Order has been passed by Govt. of India to issue CSD Canteen Card facility to retired Civilian employees of Defence services. Applicant will be issued the same on applying for the same in writing.

7. We have heard learned counsel for the applicant. None appeared for the respondents. We have perused the pleadings on record and proceeded with the case since it pertains to the year 2014.



8. I. The core dispute, in principle, is in regard to the parity of pay scales recommended by the Pay Commission between Secretariat and Non Secretariat Staff in the cadre of Assistants. Other reliefs sought have not been pressed by the Ld. Counsel as at para 3 above and hence, not taken up.

In regard to parity of scales, it has to be observed that the Central Secretariat Staff deal with the work relating to laying down of policy matters. The work, they deal with, will have National repercussions and calls for a National perspective in respect of issues to be dealt. The nature and culture of work in Central Secretariat is totally different given the amount of data to be processed as well as in addressing the challenges that crop up from different parts of the country. Besides, the issues worked upon would be of sensitive nature in respect of the scale of finance, National security, Parliament related work, etc. In contrast, the field office staff are involved in implementing the policies as per guidelines laid down by the Central Secretariat of the concerned Ministry. Hence, there is a clear distinction between the nature of work to be handled by an Assistant in Central Secretariat and an Assistant in the Non Secretariat Offices. The applicant has merely stated that the Assistants in the Central Secretariat offices and those in non-secretariat offices shoulder equal responsibilities and perform similar functions but has not demonstrated the same by any documentary evidence. The how and why a pay scale has to be granted



should be justified by the applicant. It is not as simple as a mathematical formula to grant equal pay scales. Much goes into the fixation of pay scales. Therefore, the formation of Pay Commissions, which are expert bodies, entrusted with the responsibility of going into the complexities of pay and pension related matters. Besides, the quality of work varies from post to post and from institution to institution. This reality cannot be obscured. True to speak, Pay scale cannot be a matter of demand based on assumptions, but has to be decided on proof. Moreover, applicant has not proved that the distinction between the pay scales referred to is illogical or vitiated by mala fides on the basis of law or facts. It is necessary that when the plea of equal pay scale for similar nature of work is claimed, it has to be examined with reference to [Article 14](#) of the Constitution and the burden is upon the applicant to establish the right for equal pay scale, or the plea of discrimination, as the case may be. This burden the applicant, we reiterate, has failed to discharge.

II. It is also pertinent to adduce that equation of pay scales is a complex exercise, which has to be best left to the expert bodies like the Pay Commissions. The recommendations of the Pay Commission are to be primarily accepted by the Govt. and only those accepted, are acted upon. The parity sought has not received any favourable consideration by those concerned nor did the applicant agitate before the relevant Anomaly Committee, which is the right forum to approach. The Govt. has to be generally given the leeway in fixing the pay scales. Tribunal, for sure, cannot direct the respondents to fix a certain scale, unless it is established that the applicant has been discriminated to be given a certain pay scale, for

which he is eligible. Eligible Pay scale has been granted to the applicant as per relevant norms. Hence, any interference in the accepted recommendations of the Pay Commissions, without sound judicial justification would not only cause a cascading effect in the entire administrative spectrum of the Central Government in terms of financial management but also invites multifarious litigation.



III. In making the above observations, we take support of the Hon'ble Supreme Court well laid down legal principles in the following cases. Relevant portion of the judgments are reproduced here under:

**a. *Union of India v. Dineshan K.K.*, (2008) 1 SCC 586,**

*It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission, etc.*

**b. *State of Bihar v. Bihar Veterinary Assn.*, (2008) 11 SCC 60, at page 64 :**

*13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State.*

**c. *Chief Administrator-cum-Jt. Secy. to G.O.I v. Dipak Chandra Das*, (1999) 9 SCC 53 ,**

*"4. However, the Tribunal could not have directed fixing the pay scales of the respondent. On the other hand, a direction should have been issued to the authority concerned to fix a proper pay scale bearing in mind the finding recorded by the Tribunal that Divisional Accountants enjoy a higher status to that of a Senior Accountant."*

**d. *State of Madhya Pradesh and Anr. vs Pramod Bhartiya and Others*, decided on 8 October, 1992, AIR 1993 SC 286, 1992 (65) FLR**

991, JT 1992 (5) SC 683, (1993) ILLJ 490 SC, 1993 I OLR SC 448, 1992 (2) SCALE 791, (1993) 1 SCC 539, 1992 Supp 1 SCR 904

“2. In *Randhir Singh* (AIR 1982 SC 879), Chinnappa Reddy, J. Speaking for the Bench of three learned Judges said:



“We concede that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for courts but we must hasten to say that, where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. Of course, if officers of the same rank perform dissimilar functions and the power, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same... Construing Articles 14 and 16 in the light of the Preamble and [Article 39\(d\)](#), we are of the view that the principle 'equal pay for equal work' is deducible from those Articles and may be properly applied to case of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer.”

3. The above principle was followed and applied in *P.K. Ramachandra Iyer vs. Union of India* [(1984) 2 SCC 141]; *P. Savita vs. Union of India* [1985] Suppl. S.C.C.94; *Dhirendra Chamoli v. State of UP* [(1986) 1 SCC 637], *Surinder Singh v. Engineer-in-Chief, CPWD* [(1986) 1 SCC 639]; *Jaipal v. State of Haryana* [1988] 3 S.C.C 354 and in *Federation of All India Customs and Excise Stenographers v. Union of India* [(1988) 3 SCC 91]. While it is not necessary to refer to all the decisions, a brief reference to the decisions last-mentioned may be in order. S. Mukherji, J. speaking for himself and R.S. Pathak, C.J. had this to say about the content of the rule:

“In this case the differentiation has been sought to be justified in view of the nature and the types of the work done, that is, on intelligible basis. The same amount of physical work may differentially quality of work, some more sensitive, some requiring more fact, some less - it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object sought for, as reiterated before a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the court unless it is demonstrated that either it is irrational or based on no basis or arrived mala fide either in law or in fact. In the light of the averments made in the facts mentioned before, it is not possible to say that the differentiation is based on no rational nexus with the object sought for to be achieved.”

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12. *The material above mentioned goes to show that (a) the qualifications prescribed for the lecturers in the Higher Secondary Schools and the non-technical lecturers in Technical Schools are the same; (b) service conditions of both the categories of lecturers are same and (c) that the status of the schools is also the same. There is, however, a conspicuous absence of any clear allegation and/or material suggesting that functions and responsibilities of both the categories of lecturers is similar. Much less is there any allegation or proof that qualitatively speaking, they perform similar functions. It is not enough to say that the qualifications are same nor is it enough to say that the schools are of the same status. It is also not sufficient to say that the service conditions are similar. What is more important and crucial is whether they discharge similar duties, functions and responsibilities. xxxxx*

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13. *It would be evident from this definition that the stress is upon the similarity of skill, effort and responsibility when performed under similar conditions. Further, as pointed out by Mukherji, J. (as he then was) in Federation of All India Customs and Excise Stenographers the quality of work may vary from post to post. It may vary from institution to institution. We cannot ignore or overlook this reality. It is not a matter of assumption but one of proof. The respondents (Original petitioners) have failed to establish that their duties, responsibilities and functions are similar to those of the non-technical lecturers in Technical Colleges. They have also failed to establish that the distinction between their scale of pay and that of non-technical lecturers working in Technical Schools is either irrational and that it has no basis, or that it is vitiated by mala fides, either in law or in fact (see the approach adopted in Federation case). It must be remembered that since the plea of equal pay for equal work has to be examined with reference to [Article 14](#), the burden is upon the petitioners to establish their right to equal pay, or the plea of discrimination, as the case may be. This burden the Original Petitioners (Respondents herein) have failed to discharge.”*

- e. **P. Singaravelanand Ors.Etc. Etc. vs District Collector, Tiruppur DT and Ors. Etc. Etc.,** decided on 18 December, 2019, in Civil Appeal No(s) 9533-9537 of 2019 (arising out of S.L.P. (Civil) No (s).5395-5399 of 2016)

*“20. In our considered opinion, apart from claiming parity with similarly placed individuals, the Appellants have been unable to justify how and why they are entitled to the Selection Grade and Special Grade pay scales of Rs. 5000-8000 and Rs. 5500- 9000 as specified in Serial No. 8 of Schedule II to the 1998 Rules, in terms of G.O. Ms. No. 162. On the other hand, on perusing the series of revisions made to the pay scales applicable to drivers employed with the State Government, we find that the applicable pay scales for the Selection Grade and Special Grade would be as per Serial No. 6 of Schedule II to the 1998 Rules, i.e. Rs. 4000-6000 and Rs. 4300-6000 respectively.”*



IV. We have also gone through the judgment of the Principal Bench in OA No.3370/2012 dt. 24.09.2018, cited by the applicant in support of his contentions. The case of the applicants in the cited OA was that there has been historical parity with Central Secretariat Service. In that view of the matter and also keeping the specific observations of the 6<sup>th</sup> CPC to preserve the parity between CSS/ CSSS and other organizations, where such historical parity existed, Hon'ble Principal Bench of this Tribunal allowed the said OA. In the case on hand, the applicant himself has stated in the OA that there has been difference in pay of the non-secretarial staff as compared to the Central Secretariat Staff under V CPC and even in 2006, pay scale of the Central Secretariat Staff was elevated, whereas, not that of the employees like him. Thus, it is not the case of the applicant that there has been historical parity in the pay scales of the Central Secretariat Staff and the non-secretarial staff like him. Therefore, in our considered view, the decision cited by the applicant is not applicable to the facts and circumstances of the present case.



V. Further, in the context of pay scales, Hon'ble Supreme Court in ***Union of India vs. M.V. Mohanan Nair***, in Civil Appeal No. 2016 of 2020, decided on 5<sup>th</sup> March, 2020, has held as under:

“30. Observing that it is the function of the Government which normally acts on the recommendations of the Pay Commission which is the proper authority to decide upon the issues, in [Union of India and another v. P.V. Hariharan and another](#) (1997) 3 SCC 568, it was held as under:-

“5. .... It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed

*pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. xxxxx"*



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*35. The prescription of Pay Scales and incentives are matters where decision is taken by the Government based upon the recommendation of the expert bodies like Pay Commission and several relevant factors including financial implication and court cannot substitute its views. As held in Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72, the court should approach such matters with restraint and interfere only when the court is satisfied that the decision of the Government is arbitrary.."*

VI. In view of the legal principles laid down by the Hon'ble Apex Court, as at above and the applicant having failed to establish any malafide in not granting the pay scale sought, we cannot find fault with the decision of the respondents in not entertaining the request of the applicant for re-fixation of the pay. The DOPT and Dept. of Expenditure OMs issued on 5.9.2006 and 13.11.2009 respectively, cited by the applicant would not come to his rescue for reasons elaborated in paras supra.

VII. Therefore, in view of the aforesaid, the OA, being devoid of merit, merits dismissal and hence, dismissed with no order as to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

**(ASHISH KALIA)**  
**MEMBER(JUDL.)**

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