

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1515/1987 199
~~XXXXXX~~

DATE OF DECISION 4.10.1991

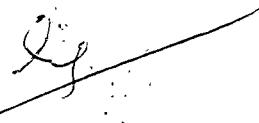
<u>V. M. Pandit & Ors</u>	Petitioner
<u>Shri S. C. Gupta</u>	Advocate for the Petitioner(s)
Versus	
<u>Director, CBI & Ors.</u>	Respondent
<u>Mrs. Rajkumari Chopra</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J)

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

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether it needs to be circulated to other Benches of the Tribunal? X


Vice Chairman (J)

64

CENTRAL ADMISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1515/1987.

DATE OF DECISION: 4.10.1991.

Shri V.M. Pandit & Ors.

Applicants.

V/s.

Director, Central Bureau of
Investigation and Ors.

Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri S.C. Gupta, Senior Counsel with Shri M.K. Gupta, counsel
for the applicants.

Mrs. Raj Kumari Chopra, Counsel for the respondents.

G. SREEDHARAN NAIR, V.C.: JUDGMENT

The 55 applicants, who are Deputy Superintendents of Police (referred to hereinafter as Dy.SP) in the Central Bureau of Investigation (for short, CBI), in the Government of India, have filed this application alleging that the Fourth Central Pay Commission, while dealing with the examination of the pay scales of the officers of the CBI, recommended that its recommendation regarding pay scales of Central Police Organisations will apply to the CBI. It is stated that the recommendations of the Commission were accepted by the Government and notified. The grievance of the applicants is that though the Dy. SPs of the CBI are Group A Officers and had to be equated with other Group 'A' officers of the Central Police Organisation, despite the sanction of the scale of pay of Rs.2200-4000/- to the Assistant Commandant and Dy. SPs of the Central Police Organisation on the recommendation of the Commission, they were fixed in the scale of pay of Rs.2000-3500 as per the order dated 30.3.1987. It is alleged that the anomaly was pointed out when the order dated 9.4.1987 was issued fixing the Dy.SP's of the CBI in the pay scale of Rs.2200-4000. However, on 15.9.1987, the order was issued for the refixation of the pay of the Dy. SPs of the CBI in the scale of pay of Rs.2000-3500.

2. The applicants assail the aforesaid order dated 15.9.1987 by which the scale of pay has been reduced from Rs.2200-4000 to Rs.2000-3500, and have prayed for quashing the same. They further pray for a direction to the respondents to fix them in the pay scale of Rs.2200-4000/- with effect from 1.1.1986.

3. In the reply filed by the respondents, certain preliminary objections have been raised as below: -

- (i) Since the application has been signed only by the 1st applicant, though there are 54 other applicants as well, and as no authorisation from the other applicants has been filed, the application is not in proper form;
- (ii) as the Government have taken a policy decision that the scales of pay in Delhi Police, IB and CBI would be at par with each other, the court has no jurisdiction to interfere in the matter;
- (iii) the application is bad for misjoinder as well as nonjoinder of parties since the Ministry of Finance the competent authority for sanction of pay scales has not been made a party; and
- (iv) the impugned order dated 15.9.1987 was issued only for the purpose of discontinuation of the purely provisional arrangement, allowing the scale of Rs.2200-4000/- and as the applicants had given undertaking that excess amount, if any, drawn by them in terms of the provisional arrangements will be refunded, there is acquiescence on their part and as such the application is not maintainable.

4. On the request of counsel of respondents, the preliminary objections were heard on 10.4.1991. Orders were pronounced on 12.4.1991 over-ruling the preliminary objections.

5. On merits, the contention of the respondents is that the relevant entries in the Resolutions of Government of India, Ministry of Finance (Department of Expenditure) dated 13.9.1986 (Annexure R-4) and dated 13.3.1987 (Annexure R-5) do not indicate that Government have accepted the recommendations made by the Fourth Central Pay Commission in chapter 10 in toto, and that on the other hand, it is made clear therein that the acceptance is subject to certain changes in the pay scales of Police personnel, which are being notified separately. It is further contended that in the CCS (Revised Pay) Rules, 1986, since the Dy. SsP in the CBI have not been allowed the scale of pay of Rs.2200-4000, they are entitled only to the normal replacement scale of Rs.2000-3500. There is also the plea that the Dy. SsP of the CBI stand on a different footing from the staff of the Central Industrial Security Force, and that Government have taken a policy decision that pay scales in Delhi Police (IB and CBI) would be on par with each other, and accordingly the scale of pay of the Dy. SP in the CBI was fixed at Rs.2000-3500.

6. The main plank of the attack against the impugned order dated 15.9.87 was that when Government accepted the recommendations of the Pay Commission and its basis, the Dy. SsP in the CBI were allowed the scale of Rs.2200-4000 with effect from 1.1.1986, the action of the respondents reducing the scale of pay to Rs.2000-3500 is contrary to settled principles of law. In support of this submission, Shri S.C. Gupta, counsel of the applicants, placed reliance on the decision of the Supreme Court in Purshottam Lal and Others Vs. Union of India (AIR 1973 SC 1088) where it was held when Government had made a reference and accepted the recommendations, it is bound to implement the recommendations in respect of all Government employees, and if it does not implement the recommendations regarding some employees only, it commits the breach of Articles 14 and 16 of the Constitution of India. The fallacy in this submission is exposed when

1 -

27

the decision of Government with respect to the recommendations of the Pay Commission is carefully considered. No doubt, the Commission had stated in their Report at paragraph 10.341 of Part XVII in chapter 10 that the pay structure of central police organisations under Ministry of Home Affairs has been considered and that the pay scales of posts in the CBI are comparable with them and the recommendations regarding pay scales of central police organisations will apply to CBI. However, from the Resolution of Government dated 13.9.1986 (Annexure R-4), to which is annexed a statement indicating the decisions of Government, it is clear that the recommendations made by the Commission in chapter 10 in regard to the revised scale were "accepted subject to certain changes in the pay scales of police personnel which are being notified separately". In the subsequent Resolution dated 13.3.1987 (Annexure R-5), this is reiterated. The CCS (Revised Pay) Rules were issued consequent upon the decision of Government on the recommendations of the Pay Commission, incorporating the revised pay scales, on 13.9.1986 (Annexure R-6), and on 22.9.1986 (Annexure R-7). There is an amendment to the rule, which was notified on 13.3.87 (Annexure R-8). The revised pay scales for various posts are contained in the first schedule and it is clearly indicated in Part-A of the said schedule that the revised pay scales would apply to the various posts unless/a separate pay scale is notified elsewhere. Part-C of the first schedule indicates those scales for each Department designation-wise which are different from the standard replacement pay scales indicated in part 'A' of the schedule. While in respect of the post of Assistant Commandant in the Central Industrial Security Force, which was in the pre-revised pay scale of Rs.650-1200, Government allowed the revised scale of Rs.2200-4000, it is specifically referred in Part-C of the first schedule. The post of Dy.SP in the CBI is not included therein. The normal replacement scale of pay is specified in Part 'A' of the first schedule. From Sl.No.20 of that Part, it is clear that in respect of

28

the scales of pay of Rs.650-1200 and Rs.775-1200, the revised scale is Rs.2000-3500.

7. In view of the above, the foundation of the plea of the applicants that the recommendation of the Pay Commission that the pay scales of Central Police Organisations will apply to the CBI has been accepted by Government, falls to the ground.

8. It is argued on behalf of the applicants that on the principle of 'equal pay for equal work', the Dy.SsP attached to the CBI are entitled to the scale of pay of their counterparts in other Central Government Police Organisations. From a perusal of the recommendations of the Pay Commission, the extracts of which have been placed before us, it cannot be said that any assessment was made with respect to the duties and responsibilities of the officers of the CBI vis-a-vis those of the officers of other Central Police Organisations. The respondents have taken up the stand that having regard to the nature of duties, it cannot be said that the Dy.SsP in the CBI are on an equal footing with their counter-parts in other Central Police Organisations and that maintaining the parity that existed earlier as well, Government took a policy decision that the pay scales in Delhi Police (IB & CBI) would be on par with each other. It has been pointed out that the disturbance of this parity will have serious implications in other police organisations. As such, *prima-facie*, the decision of Government in not accepting the recommendation of the Pay Commission in this respect cannot be said to be arbitrary or capricious so as to warrant judicial review.

9. Considerable reliance was placed by counsel of the applicants on the order dated 9.4.1987 (Annexure 'F') under which the Dy.SsP of the CBI were allowed the scale of Rs.2200-4000. No importance can be attached to the said decision as it was only a decision of the CBI, without the concurrence of Government. What is stated therein is that "It has been decided that pending final decision of the Govt. Dy.Ss.P. of CBI may be allowed a scale of Rs.2200-4000 on

provisional basis." There is also an indication that before the scale of pay is sanctioned, an undertaking has to be obtained from all concerned that excess amount, if any, will be refunded by them in the event of the proposal not being viewed favourably. The respondents have asserted in the reply that the Department of Personnel & Training, after consultation with the Ministry of Finance, Department of Expenditure, has turned down the proposal. As such, the provisional arrangement announced by the order dated 9.4.1987 had to be discontinued. It was in these circumstances that the order dated 15.9.1987 was issued.

10. As directed by us, counsel of respondents 1 and 2 made available the concerned file of the second respondent for our perusal. The file reveals that in view of the recommendations from the CBI for sanction of the scale of Rs.2200-4000 to the Dy.Ssp, the matter was discussed in the High Power Committee and a decision was taken that the scales of pay of officers in the CBI should be on par with the officers in IB and Union Territory Police Service, rather than with the other Central Police Organisations like CRPF etc., which have their own pay structure dictated by operational requirements.

11. It follows that the challenge against the order dated 15.9.1987 cannot be sustained. The application is accordingly dismissed.

(Signature)
(P.C. JAIN)
Member (A)

(Signature)
(G. SREEDHARAN NAIR)
Vice Chairman (J)

4.10.1991.