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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 199 of 1987 198
T.A. No.

DATE OF DECISION 2.12.1987

Shri Puran Chand & Others

Petitioner

Shri Krishan Narain

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri P.P. Khurana

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.

B.C. MATHUR, VICE-CHAIRMAN

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Y*
2. To be referred to the Reporter or not ? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Re*

B.C.

2/12/87

Central Administrative Tribunal
Principal Bench, Delhi.

REGN. NO. O.A. 199 of 1987 Date of decision 2.12.87

Shri Puran Chand & Others Applicants
Vs.

Union of India Respondents

PRESENT

Shri Krishan Narain ... Advocate for the applicant.
Shri P.P. Khurana ... Advocate for the respondents.

CORAM

Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, against the orders dated 30.1.1986 issued by the Administrative officer of the CBI, New Delhi, and letter dated 29.4.86 by the Department of Personnel & Training conveying the decision of the Ministry of Finance not to extend the benefit of minimum pay of Rs. 710.00 to the applicants.

2. The applicants are working as Office Superintendents in the CBI belonging to Group 'B' (gazetted posts) in the scale of Rs. 650-1200 (pre-revised). Prior to their promotion as Office Superintendents, they were working as Crime Assistants in the scale of Rs. 425-800 (pre-revised). According to the applicants, the posts of Office Superintendents and Crime Assistants in the CBI are equivalent to the posts of Section Officers and Assistants respectively under the Government of India although the nomenclature is different. While the Assistants of the Central Secretariat Service covered in the scale of Rs. 425-800 (pre-revised) on their promotion as Section Officers in the scale of Rs. 650-1250 (pre-revised) are allowed a minimum of Rs. 710.00 in pre-revised pay scale of Section Officers, the minimum guarantee pay of Rs. 710.00 is not allowed to Crime Assistants on promotion as Office Superintendents in the

CBI although the scales of pay are identical. Similar benefit has been extended subsequently to similarly placed employees of the Intelligence Bureau, Indo-Tibetan Border Police and Directorate General of Security, but the same has been denied to similarly placed officers in the CBI in the same scale of pay. The Third Pay Commission had recommended the scale of pay of Rs. 650-1200 to Section Officers in the Central Secretariat as well as Office Superintendents in the CBI, but the Government allowed two increments to the officers promoted as Section Officers in the Central Secretariat to give them the benefit of minimum guarantee pay of Rs. 710.00. As the posts of Office Superintendents held by the applicants are equivalent in all respects to the posts of Section Officers in the Central Secretariat, Intelligence Bureau, Indo Tibetan Border Police and Directorate General of Security, depriving the Office Superintendents of CBI of the minimum pay of Rs. 710.00 is in violation of Articles 14 and 16 of the Constitution and the well-established principle of equal pay for equal work.

3. The learned advocate for the applicants cited the ruling in A.T.R. 1982 - S.C. - 879 - Randhir Singh Vs. Union of India where it was held that equal pay must be paid for equal work. The case related to some drivers and it was held that they perform the same duties, irrespective of in which Department they were employed, and they must get the same salary. The principle behind this is that when the employer is the same and the work is identical, there should be no justification in having different scales of pay in different Departments of Government. ^{It is claimed that} The above ruling should apply fully in the case of Office Superintendents working in the CBI who held posts equivalent to that of Section Officers in the Central Secretariat Service. According to the learned advocate, there has been no reasonable classification of posts in various Departments and when the pay scale of Office Superintendents in the CBI and the Section officers in the Central Secretariat is the same, they must be treated as equal. The officers in the CBI per-



form the same duties as in other Departments of Government like Intelligence Burea, Directorate General of Security and Indo Tibetan Border Police and no discrimination can be made against the CBI officers, specially when persons working in the I.B. etc. are not officers of the C.S.S. The case of the applicants is that the pay at Rs. 710.00 should be fixed from the date of the promotion of the applicants to the grade of Office Superintendents. The learned advocate for the applicants also cited office order No. 175/80 dated 12.2.80 (Annexure 'V' to the rejoinder filed by the applicants) wherein Shri U.C. Nangia, an officer of the C.S.S. on his appointment as Section Officer in the C.B.I. with effect from 31.12.79 was allowed the pay of Rs. 710.00 in the scale of Rs. 650-1200 which shows discrimination against the applicants.

4. The learned advocate for the respondents emphasised that the case of the applicants was completely time-barred and no relief could be granted to them under the Administrative Tribunals Act. The relief sought in the application is to extend to the applicants a minimum salary of Rs. 710.00 with effect from 1.1.1973 when the recommendations of the Third Pay Commission came into force. According to the learned advocate for the respondents, the cause of action took place on 1.1.1973 and cannot be raised before the Tribunal at this stage. Even if the cause of the present applicants arose later, it is still hopelessly time-barred. According to him, the applicant No. 1, Shri Puran Chand, was promoted on 1.12.77, applicants 2, 3,4 and 5 were promoted on 28.2.79, 7.5.79, 19.5.80 and 6.9.79 resp. Even the sixth applicant who was the last to be promoted got the scale of Rs.650-1200 on 2.11.1985. The applicants took no action between 1974 and 1984 to challenge the non-fixation of the salary at a minimum of Rs. 710.00 and, therefore, are debarred by the limitation from coming to court now. He also mentioned that while equal pay for equal work is a well recognised principle, it is not correct that the applicants working in the C.B.I. do the same type of work as is done in the various Departments of the Central Secretariat. Government extended the benefit of minimum

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pay of Rs. 710.00 to officers of the Intelligence Bureau, Directorate General of Security and Indo Tibetan Border Police, as they are a class by themselves and the posts are not transferable. It is for Government to decide what benefits can be extended to such organisations. These decisions are to be taken by Experts Committees like the Pay Commission or the Secretaries' Committees and not by a court. A point was also raised that persons working in the CBI are all on promotion posts. All ministerial staff is appointed as LDCs and they get promoted to UDCs, Head Clerks, Crime Assistants and then Office Superintendents, whereas in the case of the Secretariat, there is direct recruitment at different levels, and, therefore, the posts in the CBI and the Central Secretariat cannot be equated. Earlier the posts at the CBI headquarters were included in the CSS cadres and, therefore, their pay had to be protected. The fixation of pay of Shri U.C. Nangia mentioned earlier is under those rules. In any case, there are no C.S.S. officers working in the C.B.I. after 1985.

5. As far as the point of limitation is concerned, the applicants in their petition dated 30.10.1987 have pointed out that is the application filed before the Tribunal on 13.2.1987 /against the order contained in CBI Headquarters letter dated 30.1.1986 (Annexure F) and the Department of Personnel's letter dated 29.4.86 conveyed on 11.6.86 (Annexure J) and as the petition was filed on 13.2.1987 within the one year of the last orders passed on 29.4.86 (Annexure J), it is within the limitation period prescribed under Section 21(i)(a) of the Act. It is stated that the application before the Tribunal is not against the D&PT O.M. dated 19.2.74 (Annexure A) because the same at the relevant time was applicable to officers belonging to CSS whereas the applicants were not participating in the C.S.S. The applicants could not derive the benefit of the orders of the DP&T (Annexure A) unless it was extended to non-CSS officers of the CBI by a specific order, as was done in the case of IB, ITBP, DGS.

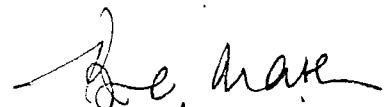
The grievance of the applicants arose after Government rejected their being allowed the same concession as given to similar organisations like the ITBP, IB, etc. Their applications were finally rejected only by Annexures 'F' and 'J' and, therefore, they could not have come to the Tribunal earlier. They have cited two cases decided by this Tribunal earlier. In 1987 (4) Administratie Tribunal Cases 534 - Shri P.P. Mehdiratta and others Vs. Union of India - O.A. 243 of 1986 decided on March 15, 1987, the applicants were claiming higher pay scale from 1.4.1974. The claim had been accepted in May, 1984 but Government retracted from its decision in July, 1984. The matter was reconsidered on a representation from some of the applicants in October, 1984, but no final decision was taken till the filing of the application before the Tribunal when it was held that the application was within time. In ATR 1986(1) CAT 203 - V.K. Mehra Vs. Secretary, Ministry of Information & Broadcasting - decided on 12.3.87 by the Principal Bench - the Tribunal held that where the application relates to a 'grievance arising out of an order more than three years immediately preceding the constitution of the Tribunal, the Tribunal shall have no jurisdiction power or authority to entertain the same, though it may be filed within six months of its constitution. However, the period of three years would have to be computed with reference to any order made on such a representation and not with reference to the earlier order.

6. It is incidental that the minimum pay scale of officers promoted in the grade of Rs. 650-1200 (pre-revised) was fixed at Rs. 710 (pre-revised) in the case of officers of the IB, ITBP, and D.G.S., but the main grievance was that when Assistants of the CSS in the scale of Rs. 425-800 (pre-revised) on their promotion as Section officers in the scale of Rs. 650-1200 (pre-revised) were allowed a minimum of Rs. 710.00, the same was not allowed to Crime Assistants on promotion as Office Superintendents in the CBI although the scales of pay are identical.

The real cause of action, therefore, took place in 1974 when the recommendations of the Third Pay Commission were implemented or when the applicants were actually promoted to the scale of Rs. 650-1200 (pre-revised). If they had felt that they were equal in all respects to the Assistants in the CSS, as they have made out in their application, they should have agitated the matter much before 1984. However, since the respondents have written to them in 1986, rejecting their case, the Tribunal should entertain the application.

7. The question to examine is whether the Office Superintendents in the CBI on their promotion from the post of Crime Assistants have a right to ^A guaranteed minimum pay of Rs. 710 (pre-revised) instead of Rs. 650 (pre-revised). The point to examine is whether the responsibilities and workload in the two organisations, namely, the Central Secretariat and the CBI are identical. ^{But} Since the pay scales in the two organisations are the same, the possibilities are that the responsibilities would also be of similar nature. It has been argued by the respondents that in the CBI it is a matter of promotion only, whereas in the CSS some posts are filled up by direct recruitment. It is possible that the minimum pay of Rs. 710.00 to CSS officers on promotion is given so that they may get at least some benefit. In the case of persons who may be promoted on the basis of a limited departmental examination, there can be a substantial jump if they are given the minimum of the higher grade. Prima facie, there seems to be a case that officers of the CBI promoted to the grade of Office Superintendents should be treated at par with their counterparts specially as till recently, the posts of Office Superintendents in the CBI were held by the CSS officers and they were paid the minimum salary of Rs. 710.00. However, it is very difficult for a court to decide the duties and responsibilities of persons working in different organisations. The respondents may, however, re-examine the whole case to consider whether the Office Superintendents in the CBI should be treated at par with their counterparts in IB, ITBP, DGS and the same

emoluments are provided to them. This is a policy matter and Government are in the best position to examine it. The respondents may examine whether the Office Superintendents on their promotion from the post of Crime Assistants should be treated at par with their counterparts in the IB, ITBP and DGS within a period of three months from now. With this direction, the application is dismissed.



(B.C. Mathur)

Vice-Chairman