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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. 314/1987.

Date of decision: August 25, 1992.

Shri Fateh Singh ... Petitioner.

Vs.

Union of India & Others ... Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioner ... Shri R.L. Sethi, counsel.

For the respondents ... None.

JUDGMENT (ORAL)

(BY MR. JUSTICE V.S. MALIMATH, CHAIRMAN)

The petitioner started his career as a Stenographer.

In due course, he was promoted as Office Superintendent in the Directorate of Preventive Operations under the Central Board of Excise and Customs on 13.8.1981.

In due course, he has also been promoted as an Administrative Officer with effect from 13.9.1986 in the scale of Rs.2000-3500. In this petition filed on 10.3.1987, the petitioner has prayed for a direction to the respondents to revise the present pay

scale of the Office Superintendent of the Directorate of Preventive Operations on par with the counterparts other working in the Directorates/Collectorates of the

Department. There is another prayer to direct the respondents for payment of salary on the basis of revised scale of pay admissible to the office Superintendents working in the Directorates/Collectorates in the

Department w.e.f. 13.8.1981, the date on which he was promoted. There is a further prayer to direct the respondents to fix the salary of the applicant on par, if not above, with his juniors.

2. The pay scales were revised on the recommendations of the Third Pay Commission with effect from 1.1.1973. So far as the post of Office Superintendent of the Directorate of Preventive Operations is concerned, the revised pay scale was fixed at Rs.550-900. It is the case of the petitioner that as regards Office Superintendents of other Directorates, viz., Directorate General of Inspection and Audit, Customs and Central Excise, Directorate General Revenue Intelligence, Directorate of publications, Directorate of O & M Services and Superintendents of several other sister Directorates/Collectorates, the scale of pay at Rs.700-900 was prescribed. The petitioner's case is that as the duties and responsibilities attached to the post of Office Superintendent of Directorate of Preventive Operations are comparable to the duties and responsibilities attached to the Office Superintendents of other Directorates referred to above, there is no justification whatsoever for fixing a lower scale of pay so far as the post of Office Superintendent of the Directorate of Preventive Operations is concerned. In other words, the complaint is that there is discrimination in regard to according of lower pay scale to the petitioner which is violative of Articles 14 and 16 of the Constitution.

3. The respondents have pleaded that the pay scales have been revised in accordance with the recommendations of the Third Pay Commission with effect from 1.1.1973 after taking into consideration all relevant factors. The reason for according a lower scale of pay for the post of Office Superintendent in the Directorate of Preventive Operations has been furnished in the counter affidavit. It is stated that the scale of Rs.700-900 was recommended for Supervisory Level I posts which were filled from Supervisory Level II posts in the scale of Rs.550-750. In regard to Supervisory Level I posts which were filled from Supervisory Level III posts, a lower scale of Rs.550-900 was recommended. In other words, the difference in the scale of pay is sought to be justified on the ground that the Office Superintendents of the Directorate of Preventive Operations came to be promoted from the posts falling under Supervisory Level III category carrying the scale of Rs.425-700 whereas the posts of Office Superintendents in other Directorates were filled up from Supervisory Level II posts carrying a higher scale of pay of Rs.550-750. It is not possible to take the view that the source from which the promotion was accorded is an irrelevant factor in the matter of prescribing the appropriate scale of pay for the promotional post. No satisfactory material is placed to show that the duties and responsibilities attached to the post of Office Superintendent of Directorate of Preventive Operations are similar to those attached to the corresponding post.

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in other Directorates. We have, therefore, no hesitation in holding that according of a lower scale of pay for the post of Office Superintendent in the Directorate of Preventive Operations is not discriminatory and violative of Articles 14 & 16 of the Constitution of India.

4. As regards the grievance of the petitioner that he should be given the same or higher scale of pay than that fixed for his juniors, it has to be stated that there is no foundation laid down in the pleading. The petitioner cannot compare himself with the Office Superintendents of other Directorates. It is not the case of the petitioner that any person junior to him in the Directorate of Preventive Operations has been given higher pay scale than the pay scale that has been given to him. Hence it is not possible to accede to the second contention either. Before concluding, we would advert to the argument of Shri R.L.Sethi that in pursuance of the work study made by the O & M Directorate, a seniority list was prepared as per Annexure A-1 in which Superintendents of all the Directorates have been included for the purpose of a common seniority list. The study of the O & M Directorate and the preparation of common seniority list clearly indicate that the Department itself has now come to the conclusion that the Office Superintendent of the Directorate of Preventive Operations is on par with the Office Superintendents of other Directorates. In the reply filed by the respondents, it is stated that no final ✓ seniority list was prepared and Annexure A-1 was only a

proposal made on which no decision has been taken. It is also submitted that the common seniority list has not much relevance so far as the fixation of pay of Office Superintendent of Directorate of Preventive Operations is concerned. The very language of the preamble to Annexure A-I makes it clear that the seniority list was a draft seniority list and the views/reactions and consultation with the concerned associations were invited. It is, therefore, obvious that it is only an attempt made to prepare a combined seniority list of Office Superintendents. No final decision has been taken in that behalf. Hence it is not possible to take the view that the Department has taken the decision that the Superintendent of all the Directorates be treated on par for the purpose of according the same pay scale. For the reasons stated above, this petition fails. No costs.

Sh. Singh
(I.K. RASCOTRA)
MEMBER(A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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