

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 971
T.A. No.

1987

DATE OF DECISION 23.2.1990

Chander Pal Saini Applicant (s)

Mr. R.P. Oberoi Advocate for the Applicant (s)

Versus

Union of India & others Respondent (s)

Mr. Avnish Ahlawat Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. G.Sreedharan Nair, Vice-Chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement ? X
2. To be referred to the Reporter or not ? X
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. To be circulated to all Benches of the Tribunal ? X

DATE SENT

(G.Sreedharan Nair)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Registration No. 971 of 1987

Date of decision 23.2.1990.

Chander Pal Saini

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Applicant

- versus -

The Union of India and others..

Respondents

CDRAM:

Hon'ble Shri G. Sreedharan Nair, Vice-Chairman

Hon'ble Shri P.C. Jain, Member (Administrative)

Counsel for the applicant : Mr. R.P. Oberoi

Counsel for the respondents : Mrs. Avnish Ahlawat.

ORDER

(Passed by Hon'ble Shri G. Sreedharan Nair, Vice-Chairman):-

In the Directorate General of Civil Defence and Home Guards there is a Pipe Band Organisation from the year 1967. It consists of paid Bandmen as well as volunteers of Home Guards. One Shri M.B. Lamba of the Delhi Police, who was working on deputation in the Directorate as Instructor, Civil Defence, being acquainted with the Band, was made the leader of the group and was formally functioning as Band Master. He left the Directorate in April, 1976. Since then the applicant was ordered to officiate as Band Master. His grievance is that he is not being paid equal pay as in the Delhi Police and in the Delhi Fire ^{Service} Band, but is paid only the scale of pay of Rs.196-232 (pre-revised) and allowance of Rs.100/- per mensem from the Band Fund. It is stated that representations were being made from time to time, but they have been of no avail. Reference is made to the memorandum dated 30.6.1987 rejecting

Representation submitted on 1.1.1987. The applicant prays for quashing the same. He has also prayed for quashing the order dated 23.2.1987 fixing his pay in the revised scale of Rs.750-940 with effect from 1.1.1986. He prays for the pay scale of Rs.550-900 ^(pre-revised) on par with the scales admissible for the Band Masters of the Delhi Police and the Delhi Fire Service Bnad.

2. In the reply filed on behalf of the respondents, it is stated that there is no post of Band Master and that the applicant is only one among the seven Pipe Bandmen. According to the respondents, no duties of any kind are prescribed anywhere for the Band Masters. It is contended that the Delhi Police and the Delhi Fire Service cannot be compared with the Home Guards which is a voluntary organisation. The claim for enhanced scale of pay is resisted.

3. Even since the Delhi Home Guards Pipe Band Organisation was formed, Shri M.B. Lamba, who was on deputation from the Delhi Police as Instructor, Civil Defence, was performing the duties of Band Master. When he was deputed to attend a training course with effect from 19.4.1976, the applicant was ordered to officiate as Band Master, by the order dated 21.4.1976. It is not disputed that ever since then the applicant is discharging the duties of Band Master and that the remuneration that is allowed to him in that behalf is only an allowance of Rs.100/- per mensem from the Band Fund. The applicant has produced Commendation Certificate issued by the Commandant General, Home Guards appreciating and recognising the good work done by him. But as was stated by counsel of the applicant, when representations were being submitted for the grant of an appropriate pay, they were not heeded and ultimately by the order dated 30.6.1987 was rejected without stating any reason, but simply observing that

the representation has been considered. A copy of the representation dated 1.1.1987 has been filed by the applicant. Therein the applicant has made pointed reference to the scales of pay of the Band Staff prevailing in the Delhi Police and in the Delhi Fire Service. He had also adverted to the fact that in the year 1984 when he wanted an application to be forwarded to the Delhi Fire Service for a post therein, it was withheld on the ground that Home Guards Band Organisation is about to be strengthened. None of these aspects is seen to have been adverted to when the representation was rejected. As such, the order dated 30.6.1987 rejecting the representation of the applicant is arbitrary and unsustainable.

4. In the reply filed, the respondents would even go to the extent of stating that there is no post of Band Master and that no duties of any kind are prescribed for the Bandman. Maybe, that among the sanctioned posts there is no post of Band Master. But the fact that Shri M.B. Lamba was discharging the duties of Band Master ever since the inception of the Organisation and that after he left in April, 1976, those duties are being performed by the applicant cannot be disputed. The order dated 21.4.1976 itself indicates that the applicant was directed to officiate as Band Master. Evidently, when the order was passed, it was intended only as stop-gap arrangement to be in operation during the absence of Lamba, who was relieved to join a training course. But Lamba, who was a deputationist from the Delhi Police, never came back to the Home Guards Organisation, and all these years the applicant has been performing the duties of Band Master. From the extract

relating to the Home Guards Pipe Band Organisation, produced by the applicant (Annexure-II with the rejoinder) it is seen that the Band Master is to impart training to the volunteers of Home Guards so that adequate strength of the party is maintained. Besides, the Band Master is responsible for the day-to-day working and discipline of the Band, for the up-keep and safety of the band equipments and for keeping the uniforms neat and clean and show-worthy. It further indicates that sanction for a post of Band Master was to be made and till the regular post of Band Master is sanctioned, the Commandant of the Central Training Institute is to appoint one of the Bandmen, based on his performance and capability as Band Master and that till ~~such appointment a~~ Band Master is recruited on regular basis, the officiating Band Master is to be paid an honorarium of Rs.75/- per mensem from the Band Fund. In view of the above, ^{the} submission of counsel of the respondents that as there is no regular post of Band Master, the applicant cannot put forward the claim cannot be accepted. The respondents are totally unjust in extracting from the applicant the duties of a Band Master for more than a decade on a mere honorarium of Rs.75/- per mensem which was later enhanced to Rs.100/-. The request of the applicant to forward his application for appointment in the Delhi Fire Service Band was not even forwarded, thereby denying the applicant the opportunity for advancing his career. No explanation has been offered as to why the post of Band Master has not been created despite the proposal in that behalf.

5. It is on record that the pay that is allowed to the applicant is in the ~~low~~ scale of Rs.196-232 (pre-revised) which has been revised to 750-940 with effect from 1.1.1986. The applicant has correctly pointed out that it is ^{the} scale of pay allowed for Class IV staff consisting of Peons, Malis,

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Sweepers, Chaprasis, etc., who are not expected to have any professional qualification or educational qualification except the prescribed VIIIth standard.

6. In view of what is stated above, we are satisfied that the applicant deserves to be granted higher pay and that a regular post of Band Master deserves to be sanctioned. As to what should be the appropriate scale of pay for the post is a matter that the respondents have to decide on a proper consideration of the points which have been highlighted in the representation submitted by the applicant on 1.1.1987, and other relevant matters. Due regard has also to be had to the well established principle that where all relevant considerations are same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments, for when two posts under ^{two} ~~the~~ different wings of the same Ministry are not only identical but also involve the performance of the same nature of duties, it will be unreasonable and unjust to discriminate between them in the matter of pay. It is the obligation of the Administration to follow and frame such pay-policy so that it is not discriminatory, arbitrary or irrational.

7. We direct the respondents to comply with this order as expeditiously as possible, and at any rate not later than a period of three months from the date of receipt of copy of this order.

8. The application is disposed of as above.

C. C. Jain
(P.C. Jain)
Member (A)

G. Sreedharan Nair
(G.Sreedharan Nair)
Vice-Chairman