

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA.2334/90

Date of Decision: 15.11.91

Shri S.C. Kumar and Others

Applicant

Shri R.P. Oberoi

Counsel for the Applicant

Vs.

Union of India & Ors.

Respondents

Shri Dinesh Kumar

Counsel for the Respondents

CORAM:

The Hon'ble Shri P.K. Kartha, Vice Chairman(J)

The Hon'ble Shri B.N. Dhoundiyal, Member(A)

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. Dhoundiyal)

This OA has been filed by S/Sh. S.C. Kumar, Inder Singh and Yashpal, who are working in the Directorate General of Home Guards. The question raised in this OA is whether for the same type of work, there can be difference in the scales of pay of Head Armourer, Kot Incharge, NK Armourer of Delhi Police on the one side and corresponding ranks in Home Guards and Civil Defence Staff on the other side. Shri S.C. Kumar is a Head Armourer, Shri Inder Singh is a Kot Incharge and Shri Yash Pal is a Naik Armourer, all working in the Directorate of Home Guard and Civil Defence. Their grievance is that, though the pay scales in the Delhi Police and the Directorate of Civil Defence and Home Guards were similar upto 31.12.1985, different pay scales for the said two categories of staff have been prescribed after the IVth Pay Commission submitted its report to the Government.

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2. The applicants have claimed that they are in no way less qualified than their counter parts in Delhi Police. A constable appointed in Delhi Police is required to undergo training before he is considered for appointment for the post of Naik Armourer. On the other hand, the applicant No.3, who is an ex-service man was already a trained armourer and did not require any ^{sw}specific training. Applicant No.2 is also a qualified armourer Kot-I and held ^{by}the rank of Havildar/ ^{in the Army.} Similar was the case of Applicant No.1. The pay scales in the Delhi Police and the Directorate of Civil Defence and Home Guards for these posts prior to 1.1.73 and thereafter are as shown below:

<u>Post</u>	<u>Pay Scales prior to 1.1.73</u>	<u>Pay scales wef 1.1.73</u>
Head Armourer	Rs.100-3-130(+ Rs.30/-S.P.)	Rs.260-350
Kot Incharge	Rs.100-3-130(+ Rs.20/- S.P.)	Rs.260-350
Nk Armourer	Rs.75-1-95(+ Rs.15/- S.P.)	Rs.225-308

3. However, after the introduction of pay scale recommended by the IVth Central Pay Commission w.e.f. 1.1.86, disparity arose as shown below:

<u>Category of Staff</u>	<u>Pay Scales</u>		<u>Remarks</u>
	<u>Delhi Police</u>	<u>Home Guards</u>	
Head Constables	975-1600	950-1400	The post of Head Armourer & Kot Incharge of Home Guards are equated with Head Constables but they have been given the revised pay scales of Constables in Police. Av



Constables(matric)

(Pre-revised scale
225-300) 950-1400

(Pre-revised scale 825-1200
210-270)

(initial pay
to be fixed
at Rs.825/-)

825-1200

The post of
Armourer in
Home Guards
is equated to
that of a Naik
which is higher
than a Constable
but he has been
given a revised
pay scale which is
for non-matric
constables.

4. Our attention has also been drawn to ^{the} compendium of instructions issued in 1975 for the Home Guards advising the States to follow the scales for equivalent rank in their own police forces for the whole time employees in the Home Guards organisation. The applicants were also recruited in accordance with the recruitment rules for Delhi Police and it was for this reason that their pay scales were earlier fixed at par with the pay scales of the Police Department.

5. The applicants had approached this Tribunal earlier in OA.No.947/87. In an order passed on 21.2.90, this Tribunal took the view that since the relief claimed by applicants related to alleged anomaly in fixation of their pay, essentially it was not a matter on which a verdict could be given by this Tribunal. The respondents were directed to consider all the points raised by the applicants in their representations before the expiry of two months. It was left open to the applicants to pursue their case in appropriate proceedings in case they were aggrieved by the disposal of the application. The representation were rejected by Government of India in August 1990. Hence the present O.A.

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6. The respondents have referred to the recommendations of the IVth Central Pay Commission and have contended that the nature of duties and the responsibilities of the two organisations are different. According to them, the quantum of work is more in Delhi Police, as compared to Home Guards and Civil Defence. The representation received from the applicant was forwarded to the Government of India and the same was considered on merits and rejected.

7. We have gone through the records of the case and have heard the learned counsel for both parties. The learned counsel for the applicant has cited the decision by the Supreme Court in Federation of All India Customs and Central Excise Stenographers and others Vs. Union of India and others, in which the Supreme Court held as under:

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"Equal pay for equal work is a concomitant of Article 14 but equal pay for unequal work will be a negation of that right. Equal pay must depend upon the nature of work done; it cannot be judged by the mere volume of work."

8. In the present case, the respondents have not denied the averments made by the applicants that:

(a) their pay scales were identical to the scales fixed for the Delhi Police.

(b) An equation of pay scales for posts in Delhi Home Guards and Police Department in Union Territory of the corresponding categories had been established long ago and this equation had been in force from 1967 onwards; and

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** (1988) 3 SCC 92.

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(c) matriculate constables in Delhi Police with three years service and six months of local training are given 48 weeks basis Armourer Course Training by the Army, when selected for the post of Armourers while all the applicants are trained Armourers and ex-servicemen and are better equipped and qualified than the Armourers working in the Police.

9. We are unable to find any justification for disparity in the pay scales, particularly, when from 1967 onwards, a parity was being maintained and the respondents themselves have commended to the State Government that the emoluments of whole time paid employees of Home Guard and Civil Defence should be at par with those of Police in their States. We, therefore, allow the application and dispose it of with the following directions:

(a) The pay scales of Head Armourer, Kot Incharge and NK Armourer in Home Guard and Civil Defence shall be treated at par with those in Delhi Police w.e.f. the date on which these scales became applicable in Delhi Police after the implementation of the recommendations of the IVth Pay Commission.

(b) The applicants would be entitled to arrears of pay and consequential benefits.

(c) The respondents shall pass the necessary orders as directed in (a) and (b) above, within a period of three months from the date of receipt of this order.

10. There will be no order as to costs.

B.N. DHOUNDIYAL
(B.N. DHOUNDIYAL) 15/11/51
MEMBER(A)

arrived
15/11/51
(P.K. KARTHA)
VICE CHAIRMAN(J)