

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(3)

(23)

D.A./T.A. No. 2359 /1991 Decided on: 15.2.96

Nihal Singh & Ors. APPLICANT(S)
(By Shri B.B. Raval Advocate)

VERSUS

U.O.I. & Ors. RESPONDENTS
(By Shri B. Lall Advocate)

ORAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No


(DR. A. VEDAVALLI)
Member (J)


(S.R. ADIGE)
Member (A)

(A) ~~SECRET~~

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 2359 of 1991

New Delhi, dated the 15th February, 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Shri Nihal Singh
S/o Shri Dave Singh
R/o Qr. No. 76-C, Sector IV,
PushpVihar,
New Delhi-110017.
2. Shri Kalu Ram,
S/o Shri Kater Singh
R/o Qr. No. 447, Lodhi Road,
New Delhi.
3. Shri Bhale Ram,
S/o late Shri Vijoy Singh
R/o Qr. No. 103, Sector IV,
R.K. Puram,
New Delhi.
4. Shri R.K. Mandal,
S/o Shri (Late) M.K. Mandal,
R/o Qr. No. 2222,
Lodhi Road Complex,
New Delhi.
5. Shri C. Ram,
S/o late Shri Sai Ram,
R/o Qr. No. 75, Lodhi Road Complex,
New Delhi.
6. Shri Mohan Singh,
S/o Shri Prem Singh,
R/o I-II/89, Shakurpur,
New Delhi.
7. Shri Jay Prakash,
S/o Shri Husier Singh,
R/o F-366, Katwaria Sairai,
New Delhi-110016.
8. Shri Sukbir Singh,
S/o Shri (Late) Jug Lal Singh,
R/o C-401, Seva Nagar,
New Delhi.
9. Shri Om Prakash,
S/o Shri (Late) Dharan Singh,
R/o Qr. No. 635, Lodhi Road Complex,
New Delhi.
10. Shri Giasi Ram,
S/o Shri Ved Ram,
R/o Vill. & P.O. Faridpur,
Distt. Faridabad,
Haryana.
11. Shri Shrinibas,
S/o late Shri Panna Lal,
R/o Vill & P.O.
Bamoti,
Distt. Aligarh, U.P.

A

12. Shri Surendra Singh,
S/o late Shri Chowdhury Amat Singh,
R/o Qr. No. 962, Sector IV,
R.K. Puram,
New Delhi.
13. Shri Bstti Ram,
S/o late Shri Sampat Ram,
R/o D-I/15, Kaka Nagar,
New Delhi.
14. Shri Raghbir Singh,
S/o late Shri Gyanda Singh,
R/o Qr. No. 742, Lodhi Road,
New Delhi.
15. Shri Ratan Lal,
S/o late Shri Amar Singh,
R/o RZ-22, Vinoba Enclave,
CRPF Camp,
New Delhi-110072.
16. Shri Bhola Singh,
S/o late Shri Kamal Singh,
R/o Qr. No. 228, Lodhi Road Complex,
New Delhi.
17. Shri D.R. Tomar,
S/o Shri Harpal Singh,
R/o B-1-H, Gali No. 24,
Jayaprakashnagar,
New Delhi-53.

..... APPLICANTS

(By Advocate: Shri B.B. Raval)

VERSUS

1. Union of India through
the Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi.
2. The Secretary,
Ministry of Finance,
Government of India,
North Block,
New Delhi.
3. The Director-General,
Bureau of Police Research and
Development,
Ministry of Home Affairs,
Govt. of India, C.G.O. Complex,
Lodhi Road,
New Delhi. RESPONDENTS

(By Advocate: B. Lall)

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

In this application, Shri Nihal Singh and 16 others have sought a direction to the respondents to revise their pay scales and bring them on par with their corresponding counterparts in IB, CBI, RAW, Delhi Police etc. and strike down the lower pay scales granted to them by the Fourth Central Pay Commission as ultravires to the Constitution.

Consequent to this relief claimed, the applicants have prayed for arrears of difference of pay and allowances w.e.f. 1.1.86 with 18% interest till the date of realisation.

2. The case of the applicants, who were posted as Constables, Head Constables, ASIs, SIs and Inspectors in the Bureau of Police Research and Development, (BPRD), New Delhi, is that they joined the services in different Police Organisations of the States and the Centre, and came on deputation to BPRD, Home Ministry and were subsequently absorbed there on different dates. They claim that their service conditions are now on par with those of direct/departmental recruits in the BPRD. It is stated that the BPRD was initially a branch of the IB but subsequently it was constituted as a separate Organisation under the Home Ministry, but the pay and allowances and other service conditions, rights, duties and liabilities of the personnel serving in the BPRD were identical with those in other CPOs. It is stated that all these Police Organisations were covered by the four Central Pay Commissions' and the recommendations of all the four Commissions were

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applicable to all the personnel of BPRD. It is stated that vide the Second and Third Pay Commissions, whose recommendations were made effective from 1.7.59 and 1.1.73 respectively, the pay scales of the applicants were identical and on par of their corresponding counterparts in the CPOs as well as the Intelligence Agencies such as IB, CBI, Delhi Police etc. However, this pay parity was disturbed by the Fourth Pay Commission which illegally, arbitrarily and discriminatraily, depressed the pay scales of the applicants vis-a-vis their counterparts in other CPOs at all levels, beginning from Constables and going up to Inspectors. It is also contended that consequent to the Fourth Pay Commission's recommendations and its implementation by the Government w.e.f. 1.1.86, several anomalies had arisen and to set them right an Anomalies Committee was constituted. It is stated that the grievance of the applicants, along with anomalies at several levels in the BPRD were brought to the notice of Anomalies Committee but in respect of seniors were rectified to remove the anomalies by name. These anomalies in respect of non-gazetted and lowly paid applicants remained un-redressed, compelling the applicants to file this OA.

3. The respondents in their reply have contested the OA. They state firstly that OA is barred by limitation because the OA was filed in November, 1991 seeking relief against the Fourth Pay Commission which was made applicable w.e.f. 1.1.86. The respondents admit that prior to 1.1.86 there was parity in the pay scales of non-gazetted police personnel in the BPRD with their counterparts in IB, CBI. The major part of the BPRD was earlier a part of the IB/CBI and was later merged into BPRD. It was contended

that the duties and responsibilities of the non-gazetted police personnel are entirely different with that of similar ranks in the IB/CBI/DP and in this connection a Chart has been furnished at Annexure-RI showing difference between duties and responsibilities of the personnel in BPRD with their counterparts in other CPOs. It is contended that the difference in duties and responsibilities of the applicants vis-a-vis their counterparts in other CPOs is the reason behind the difference in pay scales. Furthermore, it is stated that the Fourth Central Pay Commission did not make any specific recommendations about grant of higher pay scales to non-gazetted police personnel in BPRD vis-a-vis their counterparts in IB, CBI, DP etc.

4. We have heard Shri Rawal for the applicant and Shri B.Lall for the respondents.

5. We have also perused the materials on record and considered the matter very carefully.

6. Now, the Fifth Pay Commission has been constituted, and is well into its deliberations, we are of the considered view that it would not be appropriate for us to consider this OA on merit. In State of UP Vs. J.P.Chaurasia-AIR 1989 SC 19, the Hon'ble Supreme Court has held;

"It is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, the answer to which depends upon several factors, namely, evaluation of duties and responsibilities of the respective posts and its determination should be left to expert bodies like the pay commission. The Court should normally accept the recommendations of Pay Commission."

7. We would not like to express any opinion at this stage whether the duties, functions and responsibilities of the applicants are on all fours

with their counterparts in other Police Organisations, as any such opinion at this stage may prejudice the case of the applicants before the Fifth Pay Commission. Accordingly while declining to interfere in this matter at this stage, we leave it open to the applicants to press their claim through a self-contained representation to the Fifth Pay Commission in case the same has not yet been done, and the Pay Commission are still entertaining representations, and in the event the applicants file a representation, a copy of the same may also be submitted by them to their superior authorities in the BPRD who may forward it through proper channel to the Fifth Pay Commission with their own comments thereon, if so advised.

8. This OA is disposed of accordingly in terms of the contents of paragraph 7 above. No costs.

A.Vedavalli

(DR.A.VEDA VALLI)
MEMBER(J).

Mr/chq.
(S.R.ADIGE)
MEMBER(A).

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