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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2550 of 1991

New Delhi, dated the 30th April, 1996

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

HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Shri G.S. Bhakani,
S/o Shri Jawahar Singh,
635, Kalyanwas,
Delhi-110091.
2. Shri Jintendra Singh,
S/o Shri Surajmal,
F-78, Vill. Rangpuri,
Delhi-110037.
3. Shri Rajkumar,
S/o Shri Rati Ram,
Vill. & P.O. Pandolakalan,
New Delhi-110043.
4. Shri Shardanand,
S/o Shri Lutansali,
B-122, Mansha Ram Park,
Uttam Nagar,
New Delhi-110059.
5. Shri Bhagwan Singh,
S/o Shri Rughan Singh,
Vill. Sultanpur, Manjra,
Nangloi,
Delhi-110041.
6. Shri Angrej Singh,
S/o Shri Chhotelal,
Vill. Daryapur Kalan,
Delhi-110039.
7. Shri Samay Singh,
s/o Shri Gopal Singh,
Vill. & P.O. Bamdoli,
Delhi-110061.
8. Shri Bal Dev Singh,
S/o Shri Khem Singh,
Gali No.9,
House No.219, Laxmi Nagar,
Delhi-110092.
9. Shri Vijay Kumar,
S/o Shri Ram Chandra,
A/16, Dayalpur,
Delhi.

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10. Shri P.V. Yadav,
S/o Shri Upchandra Yadav,
484-B, Gali No.2, Vijay Park,
Mauzpur,
Delhi-110053.

11. Shri Sita Ram,
S/o Shri Mangli Ram,
B-58, Pardav Nagar,
Delhi-110092.

12. Shri Chandra Pal Singh,
S/o Shri Sukan Singh,
M-172, Laxmi Nagar,
Delhi-110092.

..... APPLICANTS

(None appeared)

VERSUS

1. Delhi Administration through
the Chief Secretary,
Old Secretariat,
Delhi-110006.

2. The Commissioner of Excise,
2, Battery Lane, Rajpur Road,
Delhi-110006.

RESPONDENTS

(None appeared)

ORDER (Oral)

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

None appeared for the applicants
although we waited till 2.15 p.m. and none
appeared for the respondents either.

2. As this is a very old case we are
proceeding to dispose it of on the basis of
the materials on record.

3. In this O.A. the Constables in the
Excise Dept. are seeking parity in pay scale
with constables in the Delhi Police and also
seeking promotion to the post of S.I. Grade II.

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4. The contention of the applicants is that there are posts of constables in the Excise Deptt., Delhi Police and Delhi Transport Deptt., and the nature of duty of constables in these departments is the same. However, the pay scale of the constable in the Excise Deptt. in DAS is Rs.775-1025 whereas the pay scale of Delhi Police is fixed at Rs.950-1400 which according to the applicant is discriminatory. It is also contended that there has not been any single promotion given to the applicants in the Excise Deptt. to the post of S.I. Gd.II.

5. The Respondents in their reply have contested the O.A. and pointed out that the nature of duty of constables in the Excise Deptt. and the Transport Authority/Police Deptt. is not identical. Duty of a Delhi Police Constable is for 24 hours whereas duty of an Excise Constable starts when Vends/Bonds open and ends with the closure. Similarly Delhi Police Constables can arrest whereas Excise Constables cannot. Further Delhi Police Constables who are posted in Police Stations are also assigned the duties in areas as Beat Officers to assist S.I.s of Delhi Police in enforcing law and order duties whereas it is not in case of Excise constables. Similarly constables in Transport Deptt. as well as in Excise Departments are recruited as Class-IV as per Recruitment Rules framed by each deptt. differently

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whereas police constables are recruited as Class III employees.

6. Applicants had filed their rejoinder and denied the contention of the respondents and broadly reiterated what has been stated in their O.A.

7. The pay scales of the constables in the Excise Deptt., Transport Deptt. and Police Deptt. have been fixed in accordance with the recommendations of the 4th Pay Commission. For a prayer for parity in pay scale to succeed on the basis of equal pay for equal work the applicants have to establish that their nature of duties, responsibilities, work-load, recruitment rules, etc. are similar. However, no materials have been placed before us to establish these assertions. The Hon'ble Supreme Court has in a catena of judgments for example in State of Madhya Pradesh & anr. Vs. Pramod Kumar Bhartiay & Ors. (JT 1992 (5) SC 683), State of U.P. Vs. J.P. Churasia (AIR 1989 SC 19), State of West Bengal & Ors. Vs. Hari Narayan Bowal & Ors. (1994 27 ATC 524) and Shyam Babu Verma & Ors. Vs. UOI & Ors. (1994 27 ATC 121) held that it is for the administration to decide the question whether two posts which very often may appear to be 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 that its determination should be left to

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expert bodies like the Pay Commissions. Further, the Supreme Court in State of West Bengal & Ors. Vs. Hari Narayan Eowal & Ors. (Supra) has held as under:

"The principle of 'equal pay for equal work' can be enforced only after the persons claim satisfy the court that not only the nature of work is identical but in all other respects they belong to the same class and there is no apparent reason to treat equals as unequals. Unless a very clear case is made out and the court is satisfied that the scale provided to a group of persons on the basis of the material produced before it amounts to discrimination without there being any justification, the court should not take upon itself the responsibility of fixation of scales of pay, especially when the different scales of pay have been fixed by Pay Commission or Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material. It need not be emphasised that in the process undertaken by the court, an anomaly in different services may be introduced, of which the court may not be conscious, in the absence of all the relevant materials being before it. Till the claimants satisfy or material produced, that they have not been treated as equals within the parameters of Article 14, courts should be reluctant to issue any writ or direction to treat them equal, particularly when a body of experts has found them not to be equal." (emphasis supplied).

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8. Now the Vth Pay Commission is well into its deliberations, it will be open to the applicants to approach that body through self-contained representation, with a copy to the Respondents who may forward the same with

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their recommendations to that body, in the event that the Vth Pay Commission is still accepting the representations at present. This O.A. is disposed of accordingly. No costs.

Lakshmi Swaminathan

(Mrs. LAKSHMI SWAMINATHAN)
Member (J)

S. R. Adige

(S. R. ADIGE)
Member (A)

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