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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./XXA. No. 2622/91 /19 Decided on: 2-7-96.

Air Force Stewards' Association (India) & another
APPLICANT(S)
(By Shri C.L. Goel Advocate)

VERSUS

Union of India RESPONDENTS
(By Shri Mrs. Pratima Gupta Advocate)

CD RAM

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

THE HON'BLE ~~SHRI/SMT~~ 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 ?

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

Central Administrative Tribunal : Principal Bench
...

O.A.No.2622/91

New Delhi, this the 2nd day of July, 1996

Hon'ble Shri S.R. Adige, Member(A)
Hon'ble Dr. A. Vedavalli, Member(J)

1. Air Force Storekeepers' Association(India)
(Recognised by the Govt.of India)
through its President
'Mr. G.S. Arora'
BD - 989, Sarojini Nagar,
New Delhi - 110 023

2. ✓ Mr. G.S. Arora
S/o Shri B.S. Arora,
Store Superintendent,
Logistic Section,
Air Force Station,
Race Course Road,
New Delhi - 110 001

....Applicants

By Advocate Shri C.L. Goyal
A with its S. Samra

VERSUS

Union of India
through its Secretary to the
Government of India,
Ministry of Defence,
South Block,
New Delhi - 110 001

...Respondents

By Advocate Mrs. Pratima Gupta

JUDGEMENT

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

In this O.A. filed on 28.10.1991 the Air Force Storekeepers' Association through their President and one other have sought for a direction to the respondents to revise the pay scales of Sr.Store Superintendent from Rs.1600-2000 to Rs.2000-3200 and that of Store Superintendent from Rs.1400-2300 to Rs.1640-2600 w.e.f. 11.01.1980.



2. The applicant Association who claim to represent 1100 members of the Store keeping cadre in IAF, of whom about 400 are said to be Sr. Store Superintendent, ^{or Store Supdt.} state that as on from back as 1935 the 'Skeene Committee' set up to report on the reorganisation of the Royal Indian Air Force recommended the Indianisation of the posts of Storekeeper, as a result of which 45 civilian storekeepers were recruited through Federal Public Service Commission with graduation degree as basic qualification for recruitment. They were given extensive training and were placed in the pay scale of Rs.120-450 and were later divided into 4 grades viz. Storekeeper, Sr. Storekeeper, Store Supdt. and Sr. Store Supdt. The applicant point out that the recommendation of successive Pay Commissions were as under:-

Pay Commission

	I (Rs.)	II (Rs.)	III (Rs.)	IV (Rs.)
Store Supdt.	200-300	270-380	455-700	1400-2300
Sr.Store Supdt.	280-350	335-425	550-750	2000-3200

They point out that the III Pay Commission's recommendations were referred to the Anomalies Committee, who in turn referred the matter to an Expert Clarification Committee but because of disagreement the matter was referred to Arbitration in June 1983 and as a result of the Arbitration Award, 27 of posts of Sr.Store Supdt. were awarded pre-revised pay scale of Rs.700-900 (now revised to Rs.2000-3200). Thus according to the applicant's own admission, 20% of Sr.Store Supdt.

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are already drawing the scale sought by them in the O.A., namely, Rs.2000-3200 w.e.f. 01.01.1986.

3. The applicants have invited attention to the pay scale of Rs.1640-2900 drawn by Sr. Accountants Dandakaranya Project w.e.f. 01.01.1986 and the identical pay scale of Rs.1640-2900 drawn by Assistants and Grade 'C' Stenographers of Central Secretariat also w.e.f. 01.01.1986 and contend that the duties and responsibilities of Sr.Store Supdt. and Store Supdt. are much more onerous and important, as they are in charge of large volume of valuable stores. It is contended that 27 Sr. Store Supdt. have already been sanctioned the scale of Rs.2000-3200 prayed for, and what is now sought is only extension of this scale to another 100 Sr. Store Supdts. who are no less experienced, and denial of the same to them is arbitrary and discriminatory. The applicants admit that the IV Pay Commission recommended the replacement scale of Rs.1400-2300 for the pre-revised scales of Rs.425-600 and Rs.455-700, and recommended Rs.1600-2600 for the pre-revised scale of Rs.550-750. They further state that the pre-revised scale of Rs.425-800 was revised after the IV Pay Commission recommendations to Rs.1640-2900 for various posts in the Ministries but the Store Supdts. scale of Rs.455-700 has been recommended only the replacement scale of Rs.1400-2300 by the IV Pay Commission, which is violative of Article 14, 16, 21 & 39 of the Constitution. It has also been contended that the educational qualifications for Assistants and

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Grade 'C' Stenographers in Central Secretariat varies from Matric to Degree where the essential educational qualifications even for a Storekeeper is a Bachelors Degree and being more qualified they are entitled to the pay scale atleast equal to that drawn by Assistants/Grade 'C' Stenographers, i.e. Rs.1640-2900.

4. We have heard applicants counsel Shri Goel and respondents counsel Mrs. Pratima Gupta. We have also perused the materials on record and have given the matter our careful consideration.

5. For a prayer for equal pay based upon equal work to succeed, the applicants have to establish that their work is indeed equal not only in terms of volume but also that there are no qualitative differences in regard to reliability and responsibility (Federation of AIC & CE Stenographer (Recognised) Vs. UOI AIR 1988 SC 1291; in other words the equality has to be in all respects. The applicants have sought to equate the posts of Store Supdts. with Sr. Accountants in Dandakaranya Project and with Assistants/Grade 'C' Stenographers in the Central Secretariat, but it does not require any great amount of analysis to determine that no meaningful comparisons can be made between persons in charge of stores on the one hand and Sr. Accountants or Assistants/Grade 'C' Stenographers on the other. As the very nomenclature of the posts implies, the duties, responsibilities, nature of work



etc. are entirely different and hence this ground taken by the applicants does not help them.

6. The other limb of the arguments advanced by the applicants is that their work if anything is even more responsible and onerous than that performed by persons drawing the scale of Rs.1640-2900 (in the case of Store Supdts.) and Rs.2000-3200 (in the case of Sr.Store Supdts.). In this connection we note that the applicants themselves admit that the Fourth Pay Commission recommended the single replacement scale of Rs.1400-2300, for the two pre-revised scales of Rs.425-600 and Rs.455-700, and admittedly the Store Supdts. amongst the applicants were in the pre-revised scale of Rs.455-700. Similarly the Fourth Pay Commission according to the applicants own admission recommended the replacement scale of Rs.1600-2600 for the pre-revised scale of Rs.550-750, in which the Sr.Store Supdts. were placed. In fact prior to the recommendations of the Fourth Pay Commission, the matter had been referred to an Arbitration Board, and a result of the Arbitration Award 20% of the Sr.Store Supdts. drawing the scale of Rs.1600-2600 were assigned the higher scale of Rs.2000-3200 and accordingly 27 such posts were assigned this higher scale sought by the applicants. The prayer now advanced by the applicants, to extend the higher scale of Rs.2000-3200 to all the Sr.Store Supdts., would in effect be setting at naught the Arbitration Award, to which the applicants were a party and to which they are bound. Furthermore,

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granting the scale of Rs.1640-2900 to all the Store Supdts. would be nullifying the recommendations of the Fourth Pay Commission, which was an expert body and which recommended the replacement scale of Rs.1400-2300 to all those, including the Store Supdts., who were earlier in the pre-revised scale of Rs.455-700.

7. Applicants counsel has cited a number of rulings Randhir Singh Vs. UOI AIR 1982 SC 879; UP Raj Sehkar Bhoomi Vikas Bank Ltd. Vs. its workmen AIR 1990 SC 495; Secy. Finance Department & Ors. Vs. West Bengal Registration Associations JT 1992(2) SC 27; Jaipal & Ors. Vs. State of Haryana & Ors. 1988(3) SCC 354; Y.K. Mehta Vs. UOI JT 1988(3) SC 466; Doordarshan Camera Man Welfare Association Vs. UOI JT 1990(2) SC 118; CS Nair Vs. UOI & Ors.1992(20) ATC 904; Jaswant Kaur Anand Vs. Delhi Administration 1992(27) ATC 887; CSS Direct Recruits Associations Vs. UOI 1991(16) ATC 891 and UOI Vs. S.R. Ghosh AIR 1989 SC 402 but in the facts and circumstances of the present case as discussed in the preceding paragraphs, now that the recommendations of the V Pay Commission are expected very shortly, we are clearly of the view that without going further into the merits of the applicants claims, the V Pay Commission's recommendations should be awaited. In this connection, the Hon'ble Supreme Court's decision in State of U.P. Vs. J.P. Chaurasia AIR 1989 SC 19 is extremely relevant, wherein their Lordships have held that "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 it would depend on

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several factors including the evaluation of duties and responsibilities of the respective posts and its determination should be left to expert bodies like the Pay Commission, and the Courts/Tribunals should normally accept the recommendations of the Pay Commission."

8. We are fortified in our view by the Hon'ble Supreme Court judgement in Delhi Vet. Association Vs. UOI & Ors. AIR 1984 SC 1221. In that case the Veterinary Assistant Surgeons in Delhi Administration were claiming parity in pay scales with their counterparts in Union Territory Chandigarh; as well as in ITBP & BSF w.e.f. 01.01.1973, the date the III Pay Commission's recommendations came into force. In that case their Lordships held as follows:-

The Development Commissioner, Delhi has filed a counter-affidavit justifying the impugned pay scale and at the same time he has pleaded that this is a matter which should be allowed to be examined by the Fourth Pay Commission. In view of the latter plea, we feel that it is not appropriate to deal with the merits of the claim of the Veterinary Assistant Surgeons of Delhi in the course of this order although we feel that prima facie their grievance appears to be a legitimate one. Since any alteration in their pay scale would involve modification of the pay scales of officers in the higher cadres in the same department and in the correspondent cadres in other departments, the work of refixation of the pay scale should not ordinarily be undertaken by the Court at this stage because the Fourth Pay Commission is required to consider the very same question after taking into consideration all the relevant aspects."

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9. Furthermore in the same judgement they observed:-

"It was, however, urged that since the Fourth Pay Commission would not be making any recommendation in respect of the period between 1973 and the date on which the new pay scale to be fixed on the recommendation of the Fourth Pay Commission would come into force, the Court should consider whether the Veterinary Assistant Surgeons were entitled to any retrospective benefit in respect of the said past period. Having regard to the long delay in approaching this Court after the fixation of their pay scale earlier, we do not propose to grant any relief in respect of that period.

The petition is, therefore, dismissed. The petitioner is at liberty to make its representation before the Fourth Pay Commission to determine the pay scale of the Veterinary Assistant Surgeons of Delhi. We are sure that the Fourth Pay Commission which is presided over by a former Judge of this Court would consider their representation sympathetically."

10. In the above case we note that despite feeling that prima facie the grievance of the Veterinary Assistant Surgeons of Delhi was genuine, in view of the fact that the Fourth Pay Commission had been constituted by then, the Hon'ble Supreme Court dismissed the petition leaving it open to the petitioner to approach the Fourth Pay Commission. In the present case before us the applicants have not produced sufficient material as to clearly establish that they are being discriminated against without justification, particularly having regard to the fact that the impugned pay scales have been fixed not only

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as per the recommendations of the Fourth Pay Commission, but after consideration by an Arbitration Board culminating in an Arbitration Award, which is binding on the applicants, We are firmly of the view that we would not be justified in interfering in this matter at this stage, particularly when the recommendations of the V Pay Commission are expected very shortly. In this connection the judgement of the Hon'ble Supreme Court in State of West Bengal & Ors. versus Hari Narayan Bhowal & Ors. (1994) 27 ATC 524 is also extremely relevant, wherein it has been held:-

".....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 Committee, 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 on 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."

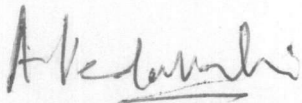
11. We presume that the applicants would have placed their case before the Fifth Pay Commission, and in any case we have no doubt that such a highpowered and expert body will recommend an appropriate scale for the applicants having regard to all the surrounding

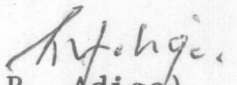
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facts and circumstances of the case.

12. That being so we are not inclined to intervene in this matter at this stage and the O.A. is, therefore, dismissed. No Costs.


(DR. A. Vedavalli)
Member(J)


(S.R. Adige)
Member(A)

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