

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A. No. 3030/1991

New Delhi this the 28th Day of April 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

Hon'ble Shri S.P. Biswas, Member (A)

Dr. Vijay Kumar Aggarwal,
Son of late Shri Sunder Lal
working as Court Master,
Monopolies and Restrictive
Trade Practice Commission,
Travancore House,
K.G. Road, New Delhi

Applicant

(Applicant in person)

-Versus-

1. Union of India,
through the Secretary,
Ministry of Law, Justice & Company
Affairs,
Shastri Bhavan
New Delhi.
2. The Secretary,
Department of Company Affairs,
Shastri Bhawan,
New Delhi.
3. The Secretary,
Department of Personnel
Administrative Reforms,
North Block,
New Delhi.
4. The Secretary,
Monopolies & Restrictive
Trade Practices Commission,
Kota House, Shahjahan Road,
New Delhi-110 011.

Respondents

(By Advocate: Shri N.S. Mehta)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The applicant in this case joined the Monopolies and Restrictive Trade Practices Commission (MRTPC) as Court Master w.e.f. 14.4.1986 in the pay scale of Rs. 650-1200 on probation for a period of two years. The recommendations of the Fourth Central

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Government Pay Commission was accepted by the Government of India and it was decided to implement the same w.e.f. 1.1.1986 and as far as MRTPC is concerned the same was implemented in October 1986 and accordingly the petitioner was placed on a revised scale of Rs. 2000-3500 w.e.f. 14.4.1986. The claim of the petitioner in this petition is that the grant of the revised pay scale after the Fourth Pay Commission viz., the scale of Rs. 2000-3500 was wrong and the petitioner should have been given an equivalent scale of Rs. 3000-4500 since by that time the similarly placed Court Masters of High Court and Supreme Court have been revised and a higher pay scale viz., that of Rs. 3000-4500 have been paid w.e.f. to them 1.1.1986.

2. The Contention of the petitioner who appeared in person was that as on 1.1.1973 the existing pay scale of the Court Masters of MRTPC, Supreme Court and High Court of Delhi were Rs. 350-900 and Rs. 350-900 and Rs. 350-575 respectively and after the Third Pay Commission when the recommendations were implemented the corresponding pay scales granted to them were Rs. 650-1200, 650-1200 and 550-900 respectively. The petitioner also contended and at the time when the recommendations of the Fourth Pay Commission was implemented, the Court Masters of MRTPC, Supreme Court and High Court of Delhi were given a revised pay scale of Rs. 2000-3500, 2300-3700 and 2000-3500

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respectively. The higher pay scales in the case of Court Masters in the Supreme Court was due to an order of the Supreme Court given in Writ Petition Civil No. 801/80 and the equivalent scale but higher than the original to those of the Delhi High Court was granted on the basis of an order passed by Delhi High Court revising their pay scale in Writ Petition No. 329/80. Thus by 1.1.1986, the Court Masters of the Supreme Court went one step ahead and the Court Masters of Delhi High Court were made equivalent after raising their scales one step higher, on the basis of Court orders. The Court Masters of MRTPC remained the same.


3. Again on 14.11.1991 the revised pay scale of the Court Masters of the High Court was raised to the scale of Rs. 3000-4500 w.e.f. 1.1.1986 on the basis of the order passed in another Writ Petition (CWP 275/91) and similarly the revised pay scale of Court Masters in Supreme Court were further revised and granted scale of Rs. 3000-4500 w.e.f. 1.1.1986, again on the basis of another Court Order. The Court Masters of the MRTPC remained as before and were not given the benefit of Court Orders of the Court Masters of Supreme Court and High Court. The petitioner in this case, therefore, is seeking parity in pay scale, with the Court Masters of High Courts as well as Supreme Court in the revised pay scale of Rs. 3000-4500 w.e.f. 1.1.1986.



4. It is pertinent to note that the petitioner was actually given revised pay scale of Rs. 2000-3500 instead of Rs. 3000-4500 and the petitioner is seeking only arrears of payment in view of the fact that the petitioner has already retired and in view of the fact that this benefit, if granted, will apply only to the petitioner, due to the fact that all the subsequent appointments in the MRTPC for the post of Court Masters made were on the basis of deputation.

5. The petitioner vehemently argued that the Respondent No. 4 viz., the Commission had several times recommended for resolution of this obvious disparity to the Appropriate Authorities but none of those recommendations found favour with the remaining respondents. The petitioner has also brought to our notice the letters of Respondent No. 4 referring to the fact that the work and duties of the Court Masters of MRTCP are as arduous as that of the High Court as well as that of the Supreme Court.

6. The petitioner submitted to this Court on the basis of a large number of cases from Supreme Court that the Apex Court has always recognised the well recognised Principal of Law and Equality on public services viz., equality before the law, the equality of opportunities in matters relating to employment, and equal pay for equal work derived from Article 14, 16(1) and 39 (d) of the Constitution of India.



7. To apply these principles to the facts of this case, the petitioner who is a practising advocate at present, submitted that in order to apply the above principles, the determining factors are:

- a) the character of the establishment or organisation to which the post belongs;
- b) the nature of the duties, functions and responsibilities attached to the post in the establishment in question and that of the identical or near identical establishment;
- c) minimum academic qualifications prescribed under the Rules governing the recruitment of establishments;
- d) the initial pay scales attached to the post in the establishment in question and that of the identical or near identical establishments and subsequent variations thereof;
- e) Reference to Pay Commission; and
- f) Mode of Recruitment to the post in the establishment in question and that of the identical or near identical establishments.

8. The petitioner further proceeded to establish each of the facts enumerated by him and we are of the opinion that all the other factors become relevant if one would agree with factor (b) mentioned above by the petitioner. It may not be always possible for this Court that even if we agree that factor (b) is applicable to the present case, we can grant the reliefs as prayed for. According to the petitioner, if it is shown that the nature, duties, functions and responsibilities attached to the post in the establishment in question, are of identical or near

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identical with other comparable establishments, this court can pass an order revising the pay scale of the petitioner to that of the comparable establishments.

9. The petitioner has taken us to a comparative position of duties, functions and responsibilities mostly with reference to the respective recruitment rules. There is no doubt that there is some kind of identity or near identity with reference to the duties, functions and responsibilities of the Court Masters of all the three Institutions as reflected in the respective recruitment rules.


10. We have given an anxious thought whether the petitioner can be granted higher pay scale of Rs. 3000--4500 granted to the similarly placed Court Masters of High Court of Delhi and Supreme Court. We are of the opinion even if there exists comparability with regard to the duties, functions and responsibilities as stated above, in order to give the benefit of higher pay scale at the instance of this court, the petitioner should demonstrate a clear case of hostile discrimination. We do not have the complete facts with regard to the duties, functions and responsibilities of the Court Masters of the High Court of Delhi and Supreme Court before us. As far as the record of the present case is concerned, the petitioner seems to have a strong case of parity and the same is reflected by the recommendation of respondent no. 4 but we are afraid that as a

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reviewing court, this court can grant any relief to the petitioner on any of the grounds raised, short of hostile discrimination.

11. In the premises, we are of the opinion that the petitioner should approach the good offices of the respondents once again alongwith the copy of this order and make a representation and they shall consider the same in the light of this order as well as the recommendations made by respondent no. 4 and communicate a decision to the petitioner within three months from the date of receipt of the representation, in accordance with law and in public interest. We make it clear that we are not passing any order on the relief claimed, not for the reason that we did not see any disparity or any discrepancy rather that there was no case of hostile discrimination to enable this court to pass an order in the nature of mandamus.

12. With these observations, this OA is dismissed with no orders as to cost.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J) >

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