CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

New Delhi this the 7th Day of April 1995

Hon'ble Mr. S.R. Adige, Member (A)
Hon'ble Mr. P. Suryaprakasam, Member (J)

1. O.A. No. 538/1991

Shri S.K. Tewari,
Son of ~~&~~ Late Shri M.K.P. Tewari,
A-21 Pratap Nagar,
Agra.

~~O.A. No. 539/1991~~ ~~xxxxxxxxxxxxx~~ ~~Applicant~~

2. Shri Ramji Nigam,
Son of Shri S.M.L. Nigam,
44 Shastri Nagar, Colony,
Lucknow-226004.

~~O.A. No. 540/1991~~

3. Shri Ved Prakash,
A-198, Vijay Nagar,
Single Sto[illegible], Delhi-~~9~~ 110 009.

O.A. No. [illegible]/1991

4. Ms. Kalpana Saxena,
D/o Shri M.P. Nigam,
Sector III, D-19 Defence Colony,
Dehradun, U.P.

O.A. No. 542/1991

5. O.A. No. 542/1991
Dr. Ravi Kanti,
S/o Shri Kameshwar Prasad,
D-170, Kedar Nagar,
Shahganj, Agra-282010
U.

6. O.A. No. 543/1991
Mahendra Singh,
S/o Shri Kannauj Lal,
Resident of V & PO.O. Rohali Distt.
Farrukhabad, U.P.

7. O.A. No. 544/1991
Shri Prem Kumar,
S/o Shri Rai Singh Nagta,
R/o 3/1, Ravinder Puri,
New Cantt Road,
Dehradun. U.P.

8. O.A. No. 545/1991
Shri Sunil Kapoor,
Son of Shri P.N. Kapoor,
51 Tilak Road, Delhi-248001.

9. O.A. No. 546/1991
Shri Yogesh Kumar, Kanotra
Son of Shri B.P. Kanotra, Kanwali Road,
Dehradun, U.P.

~~(Shri Inderjit Sharma)~~ ... Applicants

Vs.

1. Union of India,
through Secretary,
Dept. of Culture,
Ministryof H.R.D.,
Shastri Bhawan,
New Janpath, New Delhi.
(By Advocate: Shri Inderjit Sharma)

2. The Director General,
Archaeological Survey of India,
Janpath,
New Delhi.

... Respondents

(By Advocate: Shri R.K. Shukla, proxy
for Shri VSR Krishna)

J U D G M E N T (Oral)

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

As all these Original Applications involve common question of facts and law, they are being disposed of by this common judgement.

2. All these applicants who are Chemical Assistants in the Archaeological Survey of India under the Ministry of Human Resources Development have prayed for upgradation of their pay scales to that of Senior Chemical Assistants in the Grade of Rs. 1640-2900 and for redesignation of their posts as Assistant Chemist.

3. The applicants joined the Archaeological Survey of India in the Department of Culture which forms part of the Ministry of Human Resources Development as Chemical Assistants on different dates and according to their work which is scientific in nature, involves the chemical conservation/preservation of monuments, antiques, art-objects, paintings etc., not only within the country but even abroad. According to them under the Recruitment Rules the minimum qualification prescribed for the posts of Chemical Assistant is M.Sc. in Chemistry with at least 50% marks. 90% of the vacancies of Chemical Assistants are filled by direct recruitment through the Staff Selection Commission and 10% through promotion. From Chemical Assistants they can be promoted to the post of Senior Chemical Assistants after putting in 5 years of regular service as Chemical Assistants. The posts of Chemical Assistants are in the grade

(prerevised) of Rs.425-700 while those of Senior Chemical Assistants are in the grade of Rs.550-900. The applicants contend that in O.A.No.601/87, Zeological Assistants, Museum Assistant and Senior Gallary Assistants under the Zological Survey of India who were similarly placed like the present applicants and with the pay scale of Rs.425-700(prerevised) had sought for and secured a direction that their pay be fixed in the scale of Rs.550-900 as recommended by the Third Central Pay Commission. Sh. Inderjit Sharma, learned counsel for the applicants has invited our attention to the Tribunal's judgment dated 7.10.88 in the said O.A. by which prayer was allowed and Zological Assistants and Senior Gallery Assistants in the Zological Survey of India who were in the pay scale of Rs.425-700 were ordered to be placed in the pay scale of Rs.550-900 admissible to the Level-I Scientific Assistants w.e.f. 1.1.73. Sh. Inderjit Sharma contends that the case of the applicants is on all fours with the case of the Zological Assistants etc. of the Zological Survey of India. He also invited our attention to para 10.290 of the Fourth Central Pay Commission' report according to which Technical Assistants and Senior Technical Assistants of the Department of Culture who were in the pre-revised scale of Rs.425-700 and Rs.550-900 respectively were given ~~a~~merged and revised pay scale of Rs.1640-2900. Sh. Sharma had contended that the educational qualifications, duties and responsibilities etc. of the applicants before us are no different from that of the

Technical Assistant in the Department of Culture and further more while those Technical Assistants have to serve only within the country, the applicants in the present OA are even called upon to serve abroad, which points to the fact that their duties and responsibilires are even more onerous.

4. On behalf of the respondents Sh. Shukla, proxy counsel for Sh. V.S.R. Krishna has appeared.

5. In so far as the Tribunal's judgement dated 7.10.88 in OA-610/87, granting the scale of Rs.550-900 to Zological Assistants, Museum Assistants and Senior Gallary Assistants under the Zological Survey of India is concerned, which brings them at par with the scale admissible to Scientific Assistants, Level-I and makes these scales applicable w.e.f. 1.1.73, it must be mentioned that the rationale for that judgement was based on the fact that the Third Central Pay Commission itself had recommended those pay scales for the applicants. However, the Fourth Central Pay Commission recommended the higher and merged pay scale of Rs.1640-2900 only for Technical Assistants and Senior Technical Assistants in the Department of Culture which implies that they did not consider the present applicants namely, Chemical Assistants and Senior Chemical Assistants

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in the Archaeological Survey of India as peing on par with the Technical Assistants and the Senior Assistants in the Department of Culture. No doubt, the Fourth Central Pay Commission had recommended this higher pay merged pay scale of Rs.1640-2900 only to the Technical Assistants and Senior Technical Assistants in the Department of Culture proper and this benefit was not extended to those working in the subordinate offices. However, by judgement dated 16.1.88 and OA-80/87 the Central Administrative Tribunal Hyderabad Bench extended this higher and merged pay scale to Technical Assistants and Senior Technical Assistants working in the Archaeological Survey of India, Hyederabad also, but that judgment does not help the applicant either. Shri Sharma had contnded that the duties and responsibilites etc. of the applicants are no different from those of Technical Assistants in the Department of Culture including those working in the Archaeolgical Survey of India. We note that in so far as the nature of work is concerned, the nomenclature of the Chemical Assistants/Senior Chemical Assistants is itself different from that of Technical Assistants/Senior Technical Assistants in the Department of Culture. In so far as the performance level, responsibilities, qualfications etc. are concerned, these, in the ultimate analysis can be compared properly only by expert bodies which have the necessary resources, competence, expertise etc. to make such comparison for the doctrine of "equal pay for equal work" to

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be atracted . It is for this reason that in the case of State of U.P. versus J.P.Chaurasia AIR 1989 SC 19, the Hon'ble Supreme Court has held that the Courts/Tribunals should normally leave the evaluation of the duties and responsibilities for different posts to expert bodies such as the Pay Commissions, and accept their recommendations.

6. We are aware that the Fifth Central Pay Commission was constituted by notification dated 7.5.94 and is well into its deliberations. At this stage, therefore, we would not be justified in going into the question of evaluating the duties and responsibilites of the applicants vis-a-vis other posts. We have no doubt that the claims of the applicants would be given due consideration by the Fifth Central Pay Commission and in case the Fifth Central Pay Commission is still entertaining representations at this stage, it will be open to the applicants to file a detailed and self contatined representation to the respondents, focussing upon the specific duties and responsibilites being discharged by them, including their contention that they are called upon to perform duties abroad, and in the event that the Fifth Central Pay Commission is still receiving representations, the respondents may consider forwarding any such representation filed by the applicants to the Fifth Central Commission together with their comments/observations, if any.

7. These OAs accordingly, stand disposed of. No costs.

8. Let a copy of this ~~copy of this~~ judgment be placed in all the connected OA case records.

(P.Suryaprakasam)
Member(J)

(S.R. Adige)
Member(A)

Mittal