

Principal Bench: New Delhi

O.A. No. 580/1991

New Delhi this day the 7th of April 1995

(12)

Hon'ble Mr. B.K.Singh, Member (A)

Hon'ble Mr. P. Suryaprakasam, Member (J)

1. Shri Jitendra Nath
2. Sjhri B.K. Sahay
3. Smt. Anamika Pathak
4. Smt. Anju Sachdeva
5. Shri Sunil Kumar Singh
6. Shri Sanjib Kumar

Technical Assistants
National Museum,
Janpath, New Delhi.
... Applicants

(By Advocate: Shri Ranjit Prakash)

Vs

1. The Secretary,
Dept. of Culture,
Ministry of Human Resources Development,
Shastri Bhawan,
New Delhi.
2. The Director General
National Museum,
Janpath,
New Delhi.

... Respondents

(By Advocate: Name)

JUDGEMENT

Hon'ble Shri P. Suryaprakasham, Member J.

The applicants are employed as Technical Assistants in the National Museum, Department of Culture. The applicants were in the ordinary Grade of Rs. 425-700 and there was another Sr. Technical Assistant Grade of Rs. 550-900. The Fourth Pay Commission has merged both the grades and stated that Technical Assistants and Sr. Technical Assistants be treated as a single one in view of the high educational qualifications prescribed for them. In fact the same has been implemented from 1.1.1986 and the applicants scale was refixed as Rs. 1640-60-2600-EB-75-2900 and the applicants drew their pay in the scale till 31.3.1988. Later on the objections raised by the Internal

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Audit from 1.4.1988 the applicants' scale of pay of Rs. 425-700 which was revised to Rs. 1400-2300.

As against the same the applicants have preferred the present petition with the following prayer:

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"In view of the facts mentioned in para 4 and the grounds for Relief enumerated in para 5 of the O.A., the applicants respectfully pray that the benefits of the judgement dated 6.1.1989 in OA 80 of 1987 decided by the Hyderabad Bench of this Hon'ble Tribunal be extended to the applicants and they may be allowed continuity in the scale of Rs. 1600-2900 from 1.4.1989 i.e. the date from which it was discontinued, with arrears of pay accruing there from 1.4.1989 with penal interest."

2. The applicants relied on the two judgements viz., OA 80/1987 rendered by the Hyderabad Bench and OA 490/1990 rendered by the Principal Bench.

3. The respondents filed a counter stating that the Department of Culture consisting of various departments of which the Archaeological Survey of India and National Archives of India were the attached offices of the department of Culture and (1) National Museum; (2) National Gallery of Modern Arts; (3) Anthropological Survey of India; (4) National Library; (5) Central Reference Library and (6) National Research Laboratory are the six subordinate offices. The Pay Commission has not granted the merger of the scale in respect of Technical Assistants and Sr. Technical Assistants to the people who are being governed under the subordinate offices. In fact they have extracted certain paragraphs:

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"10.287 ASI and the National Museum are two important organisations under the Department of Culture keeping in view the nature and importnace of these organisations.

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10.290 The Department of Culture has proposed the merger of the pay scale of Rs. 425-700 and Rs. 550-900 of the posts of Technical Assistants and Senior Technical Assistants in view of the high educational qualifications prescribed for them. Technical Assistants and Senior Technnnical Assistants both assists higher officers in their work and their duties and responsibilities are quite similar. Considering their qualifications, responsibilities and duties, we feel that posts in the scale of Rs. 550-900 and suitably redesignated. The revised scale of Rs. 1640-2900 will apply to these posts."

4. They further stated that the report of the Pay Commission, "the Technical Assistants of National has not shown clerly. It was merely mentioned that Department of Culture whether it is common or cannot be stated." The duties and responsibilities of Technical Assistants differ in the National Museum. They do not have any field work. The duties and responsibilities of Technical Assistants who are working in the National Archieves as well as the Archaeological Survey of India are entirely different although the qualifications for the two posts are one and the same. In fact the National Museum is a subordinate office, whereas Archaeological Survey of India is an attached office having over 20 Museum under it.

5. The learned counsel for the applicant totally relied on the judgement by the Central Administrative Tribunal, Hyderabad Bench in OA 80/1987. In OA 80/1987 although the prayer regarding merging of the two scales has been

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allowed in favour of the applicants on the basis of the Fourth Pay Commission, we find that applicants therein were working as Technical Assistants in Archaeological Survey of India, Hyderabad. According to the respondents, Archaeological Survey of India is an attached office along with the National Archives of India. Therefore, this judgement is not of much use to the applicants and they cannot have a claim for their prayer. The other judgement that has been relied upon by the applicants is one of the Principal Bench rendered in OA No. 490/1990 dated 13.3.1992. This has been filed by the 19 Assistant Archivists Grade II in the National Archives of India. In this the prayer of merging of the two pay scales of Rs. 1400-2300 and Rs. 1640-2900 as per the recommendations of the Fourth Pay Commission was allowed based on the judgement rendered in OA 80/1987 rendered by the Central Administrative Tribunal, Hyderabad Bench. We find that in the extract that has been given in para 4.4 in the OA deals with that of the recommendation of the scale of the Pay Commission in this regard:

"10.287 ASI and the National Museum are two important organisations under the Department of Culture keeping in view the nature and importance of these organisations. (Emphasis supplied).

10.290 The Department of Culture has proposed the merger of the pay scale of Rs. 425-700 and Rs. 550-900 of the

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posts of Technical Assistants and Senior Technical Assistants in view of the high educational qualifications prescribed for them. Technical Assistants and Senior Technical Assistants both assist higher officers in their work and their duties and responsibilities are quite similar. Considering their qualifications, responsibilities and duties, we feel that posts in the scale of Rs. 550-900 and suitably redesignated. The revised scale of Rs. 1640-2900 will apply to these posts."

6. The respondents have also extracted para 10.290 of the Fourth Central Pay Commission. But in that after the word the post of Technical Assistant and Senior Technical Assistant, the words "Department of Culture" is missing. However, an authorised copy of the Fourth Central Pay Commission has not been filed before us. Therefore, the dispute is with regard, whether the recommendations of the scale Pay Commission mentioned in Para 10.287 to 10.290 is applicable to the Department of Culture as a whole or to the attached offices viz. Archaeological Survey of India and the National Archives of India alone.

7. We find that from the reply statement that the duties of the Technical Assistants employed both in the attached offices as well as the subordinate offices are different and as such the

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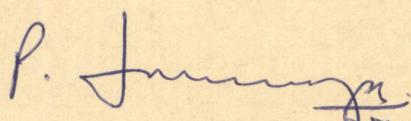
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post of Technical Assistant and Senior Technical Assistants for which the merger of scales have been recommended by the Central Fourth Pay Commission could not be made applicable to all subordinate offices of the Department of Culture as such. The best authority in this is the Government and the Government itself has stated that it is under consideration. Therefore, at this stage we do not want to interfere with their right of making decision in these type of matters.

8. We are of the opinion that the two judgements which have been relied upon by the applicants are not applicable to the facts and circumstances of the case, in the sense that these applicants belong to the subordinate offices of the Department of Culture.

9. In the facts and circumstances of the case, we find no reason to interfere with the action taken by the Government at this stage and the petition is dismissed. In the circumstances, there will be no order as to costs.



(P. Suryaprakasam)
Member (A)



(B.K. Singh)
Member (J)

Mittal