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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No.837/91

New Delhi: October 26th, 1995.

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

HON'BLE DR. A.VEDAVALLI, MEMBER (J)

Central Sectt. Official Language,
Translators Association (Recognised)
through its General Secretary,
Room No. 94/A North Block,
Central Sectt.
New Delhi - 110011.

2. Sanjay Naran,
s/o Shri Sidheshwara,
aged 28 years (DOB: 25/12/62)
R/o 7/BD Estate,
Delhi - 110084

.....Applicants.

By Advocate Shri D.C. Vohra

Versus

Union of India,
through the Secretary,
Department of Personnel & Training,
Central Secretariat,
North Block,
New Delhi - 110011.

2. Deptt. of Official Languages,
Ministry of Home Affairs,
through its Secretary,
North Block Sectt.
New Delhi - 110011

.....Respondents.

By Advocate Mrs. Raj Kumari Chopra.

JUDGMENT

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

In this application, the Central Secretariat
Official Language Translators Association and
another have sought for declaration that DOPT O.M.
dated 31.7.90 granting the pay scale of Rs. 1640-2900
to the Assistants of CSS and Grade 'C' Stenographers
of CS w.e.f. 1.1.86 be made ^{applicable} ~~available~~ to them together

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with arrears and interest thereon as well as costs.

2. Shortly stated the case of the applicants is that prior to 1973, the applicants all of whom are Junior Translators, were in the scale of Rs. 210-425 while CSS Assistants were in the scale of Rs. 210-530. Consequent to the recommendation of Third Pay Commission, the revised pay scale for Junior Translators (JTs) was Rs. 425-700 and for CSS Assistants Rs. 425-800. The Fourth Pay Commission in Para 10.280 of their report noted the suggestion made that Junior Translators should be given a higher scale of pay than CSS Assistants as they were required to possess a Master degree in Hindi while Assistants possess a Bachelor degree, but inspite of that, they had been given the pay scale of Rs. 425-700 while the Assistants in CSS were clasified as Group 'B' and were given scale of Rs. 425-800. The Fourth Pay Commission recommended that in view of the higher qualifications required for the entry grade of Junior Hindi Translators, this post should carry the scale of Rs. 1400-2600 while the post of Senior Hindi Translator (Rs. 550-800) should carry the scale of Rs. 1640-2900. These recommendations were accepted by the Government and it is the applicants' contention that consequently their pay scale were fixed at Rs. 1400-2600/- on par with CSS Assistants under CSS (Revised Pay) Rules, 1986 which had the protection of Article 309 of the Constitution.

3. The applicants thus contend that while even prior to 1973, the minnum of their scale was equal to

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the minimum of the pay scale of CSS Assistants and the maximum was only slightly lower, and while their pay scales were brought on par with pay scales of CSS Assistants consequent to the Fourth Pay Commission's recommendations, which was also accepted by the Government, that parity all of a sudden was disturbed by the issue of impugned order dated 31.7.90 granting not only to the CSS Assistants, but even to Grade 'C' Stenographers of CSS the scale of Rs. 1640-2900 (Annexure-E) and making it effective from 1.1.86.

4. The applicants states that upon their filing representation to the respondents highlighting the anomaly created by the respondents' order dated 31.7.90, they were first informed by letter dated 12.10.90 (Annexure-K) that their prayer for revision of pay was under consideration and they were later informed by letter dated 21.10.90 (Annexure-M) that the pay scales of Assistants and CSS Stenographer had been revised as per the prescribed procedure with a view to remove the anomalies in the pay scales recommended by the Fourth Pay Commission, but there was no anomaly in the pay scale of Junior Translator; hence on this ground revision of their pay scale was not possible.

5. Applicants' counsel Dr. Vohra has contended that at this stage a direction be issued to the respondents atleast to examine how this disparity has occurred, and take suitable measures to correct it.

6. Our difficulty in issuing any direction to the respondents to examine this issue at this stage arises from the fact that in granting the scale of Rs. 1640-2900 to CSS Assistants and Grade 'C' Stenographers of CSS, the respondents have in fact granted them the scale of Senior Hindi Translator. If the Junior Hindi Translators were also granted the scale of Rs. 1640-2900, it would in fact mean that the Junior Hindi Translators would be granted the same pay scales as Senior Hindi Translators. Thus, unlikes would be treated alike, which would violate Articles 14 and 16 of the Constitution. Manifestly therefore the question of revision of pay scales of the applicants can only form a part of larger, more comprehensive and holistic revision of pay scale of different categories of Government servants, so that relativities in pay scales are maintained based upon duties and responsibilities, disparities are removed, and at the same time this exercise is not violative of Articles 14 and 16 of the Constitution.

7. The fact that the revision of pay scales of the applicants to bring them on par with CSS Assistants was made in accordance with the Fourth Pay Commission's recommendations, and was embodied within the CSS (Revised Pay) Rules which has protection under Article 309 of the Constitution, while the order dated 31.7.90 which is in the nature of executive instructions, does not change the above legal position.

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8. Such a comprehensive exercise, as referred to in paragraph 6 above, can best be conducted by a whole time Expert Body, with the necessary resources, staff and expertise available. The Fifth Pay Commission which was set up by Notification dated 9.4.94 is just such a body to conduct the exercise. No doubt, 'equal pay for equal work' is a fundamental right but in State of UP Vs. J.P. Chaurasia- AIR 1989 SC 19, the Hon'ble Supreme Court has held that whether two posts should carry equal pay or not, depends upon several factors, ^{and the} ~~mainly~~ ^{expert} evaluation of the duties and responsibilities of the respective posts and its determination should be left to ~~various~~ ^{expert} bodies like the Pay Commission, and the Courts should normally accept the recommendations of the Pay Commission. No doubt, in the present case, the recommendation of the Fourth Pay Commission granting equality of the pay scale to Junior Hindi Translators with that of CS Assistants has been altered by order dated 31.7.90, but when the Fifth Pay Commission, which was set up on 9.4.94, is already well into ^{not in} its deliberations, it would be appropriate for us to adjudicate upon the merits of the case at this juncture.

9. Dr. Vohra has invited our attention to the Tribunal's decision dated 29.7.93 in O.A. 107/88 K. Bhadran Nair & others Vs. Union of India & another, whereby the respondents were directed to get examined the claim of those petitioners for the higher pay scale of Rs. 1640-2900. Dr. Vohra states that consequent

to those directions, Shri Bhadran Nair & others have been granted the higher scale. We note that this judgment was delivered nearly 9 months before the constitution of ^{the} Fifth Pay Commission, but after the constitution of ^{the} Fifth Pay Commission, as stated above, we would not be justified in adjudicating upon the merits of the applicants' grievances *at this juncture*.

10. Dr. Vohra has argued that the Fifth Pay Commission's recommendations would be prospective in character while the applicants' claims based on the Fourth Pay Commission's recommendations arise from 1.1.86 itself. There is nothing to preclude the Fifth Pay Commission or indeed the respondents from recommending/granting a particular pay scale to them even from ^a ~~the~~ retrospective date, if the circumstances so warrant it or build into their recommendations/decision, the necessary compensating factors if indeed, they are satisfied that the applicants have been discriminated against.

11. Respondents' counsel Mrs. Raj Kumari Chopra has argued that while initially the applicants may have required a Master degree in Hindi at entry level while the Assistants ⁱⁿ ~~CS~~ required only a Bachelor's degree, the position has now changed in as much w.e.f. 27.7.93 the entry level qualifications for Junior Translators have been diluted to a mere Bachelors' degree with Hindi and English as main subjects, and hence the rationale for grant of a higher pay scale to the applicants as contained in para 10.280

of the Fourth Pay Commission no longer exists.
We do not propose to make any observation upon
this contention, in case the same, in any way, may
affectⁿ the case of the applicants before the
Fifth Pay Commission.

12. In the result, we dispose of this O.A.
with the observation that in the event the applicants
have not filed any representations to the Fifth
Pay Commission, they may do so even at this stage,
provided the Commission/^{is}still accepting representation
and in that event the applicants may also submit
a copy of that representation to the respondents
who may forward it to the Fifth Pay Commission
with their own recommendations, if so advised.

13. This O.A. stands disposed of accordingly.
No costs.

A Veda Valli
26/10/95
(DR. A. VEDAVALLI)
MEMBER (J)

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

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