

(G)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.no. 1001 of 1991.

Date of decision: 10.6.91

Shri D.G.Mahapatra & Ors.

...Applicants

Shri T.C.Agarwal

...Counsel for the applicants.

Versus

Union of India & Another

...Respondents

Shri M.L.Verma

...Counsel for the
respondents

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN

THE HON'BLE MR. I.P. GUPTA, ADMINISTRATIVE MEMBER

O R D E R

(Passed by Hon'ble Mr. I.P.
Gupta, Administrative Member)

This application filed under Section 19 of the Administrative Tribunals Act, 1985, is being disposed of at the stage of admission itself. The applicants who are Field Publicity Officers have claimed for revised pay scale and grade according to the recommendation of the Third Pay Commission w.e.f.1.1.1973 and arrears of payment along with interest of 15%.

2. The Third Pay Commission had recommended as follows:

"In the existing Grade IV of the service there are 135 posts of Field Publicity Officers, who hold charge of Field Publicity Units, spread all over the country. We have been informed by the Ministry that Field Publicity Officers are given charge of Publicity Programmes in more than one district and they have to be in close touch with Senior Officers in the States. The Ministry considers that those Field posts should be manned by persons of higher calibre

and status. We also notice that out of 135 cadre posts of Field Publicity Officers, 42 posts were vacant as on 1.1.1971, which seems to suggest that these posts are not attractive enough to the cadre officers. Having regard to their duties and responsibilities, we consider that the posts of Field Publicity Officer should be given a higher pay scale compared to other Grade IV posts in the CIS and recommend that these posts should be placed in the Grade III of the service.

9. Having regard to the requirements of this service and keeping in view the general pattern that we have adopted, we recommend the following scales of pay for the various grades of the CIS.

| <u>Sl.No.</u> | <u>Grade</u> | <u>Existing Pay</u> | <u>Proposed Scale of Pay</u> |
|---------------|-------------------------|---------------------|------------------------------|
| x 6. | x Grade III | x Rs.370-800 | x Rs.650-1200 |
| 7. | Field Publicity Officer | Rs.270-485 | Rs.650-1200 |
| x | x | x | x |

3. The recommendations of the Commission were implemented by the Ministry of Information and Broadcasting w.e.f.1.10.75, while in the case of Field Publicity Officers (Border), it was ordered to take effect from 1.1.73. Being aggrieved with this Order of the Government, some Field Publicity Officers moved the Hon'ble Supreme Court on the ground that fixing of different dates for implementation of the recommendation of the Pay Commission was discriminatory. The Hon'ble Supreme Court vide their judgement in the case of P.Parmeshwar & Others Vs. Secretary to the Government of India, reported in (1987) 4 ATC, 198, held that it was not open to the Government to deny the benefit of the revised grade and scale w.e.f.1.1.73 to some and granted to others on account of administrative difficulty. Thereupon, the Government of India, Directorate of Field Publicity, Ministry of Information and Broadcasting in their letter dated 12.2.1988 ordered that while the benefit has already been given to four petitioners before the Supreme Court, the benefit for revision

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of scale of pay w.e.f. 1.1.1973 instead of 1.10.1975 would be extended to all similarly placed Field Publicity Officers. A list of officers who had to be given the benefit was enclosed with the letter. The applicants' names figured therein. The Directorate of Field Publicity further requested their Regional Heads that the LPCs as on 31.12.72 and statement showing the pay and allowances monthwise drawn by these officers during 1-1-73 to 30-9-75 may be sent to the Directorate for transmission to the Pay and Accounts Officer (IPLA) to enable him to re-fix the pay and to pay the arrears.

4. The grievance of the applicants says that they have not yet been given the grade and scale as per recommendations of the Third Pay Commission and per order of the Hon'ble Supreme Court in similarly circumstanced cases. In the counter filed on behalf of the respondents, it has been stated that:

- (i) The judgement of the Hon'ble Supreme Court was implemented in toto in respect of the ^{petitioners} applicants;
- (ii) There are administrative difficulties in giving Grade III to the applicants ^{and in} ~~in~~ that they had not completed five years service in Grade IV as on 1-1-73 as per Recruitment Rules applicable to this posts. Rather applicant no.1 had not yet completed his probation period of Grade IV of CIS as on 1.1.73. Further, the number of posts in Grade III would exceed the sanctioned strength and may require creation of supernumerary posts. ^{And} ~~But~~ still further the seniority of the incumbents vis-a-vis ad hoc appointees is pending before the Hon'ble Supreme Court. However, the learned counsel for the respondents produced before the Bench a copy of the order of Ministry of Information and Broadcasting dated 8th October, 1991, wherein names of 49 officers including the applicants, who are similarly placed ^{as} to the petitioners in

P. Parameswaran and Others Vs. Union of India, decided by Hon'ble Supreme Court on 5-12-1986 had been forwarded to the Pay and Accounts Officer, Ministry of Information and Broadcasting, for re-fixation of their pay as personal to them in the scale of Rs.650-1200 w.e.f.1.1.1973. The arrears of pay consequent upon re-fixation has also been ordered to be paid to the concerned officers at an early date.

5. The short point that remains to be considered is regarding allowing the applicants Grade III of the CIS as recommended by the Third Pay Commission and as ordered by the Hon'ble Supreme Court in similarly circumstanced cases. In view of the clear recommendations of the Commission and the orders of the Hon'ble Supreme Court, in similar cases, we direct the respondents to allow the applicants Grade III of the CIS. The administrative difficulties are not insurmountable in that ^{the} period of probation after completion can be deemed to have been completed from an earlier date.

Requirements of 5 years' service can be dispensed with by taking speaking suitable measures according to law and supernumerary posts as necessary created. These aspects apart, the Pay Commission have recommended Field Publicity Officers as Gr.III on scales as such and not on promotion.

6. As regards grant of interest of 15% over the arrears, we are not inclined to agree to this request of the applicants since the delay on the part of the Government has not been intentionally and they had to face administrative difficulties as pointed out by the respondents.

7. In conclusion, we give the following directions:

- The re-fixation of pay of the applicants in terms of Government of India's letter No.C-17011/1/78-CIS dated 8th October, 1991, should be done and arrears ^{paid} within a period of 3 months from the date of receipt of a copy of this Order.
- The applicants should be given Grade III of

CIS as recommended by Third Pay Commission and was ordered by the Hon'ble Supreme Court in similarly circumstanced cases.

iii) No interest need be paid over the arrears.

7. There is no order as to costs.

/PKK/

I.P. Gupta
(I.P. GUPTA) 10/10/91
ADMINISTRATIVE MEMBER

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN