

16

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1597/2004
Miscellaneous Application No.1342/2004
Miscellaneous Application No.620/2005

New Delhi, this the 16th day of August, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)

1. Technical Executive Officer's Association
Transport Deptt. Delhi
Through its Secretary
Anup Singh Dahiya
301, LIG Flats, Hastal
Uttam Nagar
New Delhi - 110 059.
2. M. Kumar
S/o Sh. N. Prasad
R/o 198, Mohammad Pur
Govt. Qtrs.
Delhi - 7. .. Applicants

(By Advocate: Sh. Arun Bhardwaj)

Versus

1. Union of India
Through Secretary
Ministry of Surface Transport/
Road Transport and Highways
Parivahan Bhawan
Parliament Street
New Delhi.
2. The Principal Secretary cum Commissioner of Transport
Transport Deptt, GNCT
5/9, Under Hill Road
Delhi.
3. The Additional Commissioner (Admn.)
Transport Deptt, GNCT
5/9, Under Hill Road
Delhi. ... Respondents

**(By Advocate: Sh. Ajesh Luthra for Respondents No.2 and 3;
and None for Respondent No.1)**

17

— 2 —

ORDER

By Mr. Justice V.S. Aggarwal:

Section 213 of the Motor Vehicles Act, 1988 reads as under:

“213. Appointment of motor vehicles officers.- (1) The State Government may, for the purposes of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(3) The State Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.

(4) The Central Government may, having regard to the objects to the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such.

(5) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,-

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed;
- (b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who he has reason to believe, has committed an offence under this



Act, or in which a motor vehicle in respect of which such offence has been committed is kept:

Provided that,-

- (i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;
- (ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;
- (iii) where the search is made without a warrant, the gazetted officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;
- (c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;
- (d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;
- (e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any Court;
- (f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(6) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under Sec. 94 of that Code."

ls Ag

-4-

2. Perusal of the same clearly shows that powers have been given to every State Government separately for purposes of carrying into effect the provisions of the said Act. They can establish a Motor Vehicles Department and appoint the officers thereto. Under Sub-Section (3) to Section 213, the State Government can make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions, prescribe their duties and conditions governing the exercise of such powers.

3. It is in pursuance of the said provisions that not only Rules have been framed but also certain posts have been created. Under Rule 123 of Delhi Motor Vehicle Rules, 1993, powers have been given to the State to delegate any of the powers of the Act to such persons to discharge the functions. Under Rule 124 even the Uniform has been prescribed. The gazetted officers of the transport Department have been placed under the control of the Commissioner. All Inspectors are also under the control of the Commissioner of Transport, including the checking staff.

4. Applicant No.1, i.e., Technical Executive Officers' Association (in short 'TEOA'), is an Association of Technical Executive Officers. It consists of the officers who are working as Motor Licensing Officers (for short 'MLOs'), Motor Vehicle Inspectors (for short 'MVIs'), Road Safety Inspectors (for short 'RSIs') and Driving Test Inspectors (for short 'DTIs') in the Department of Transport. The duty of the Motor Vehicle Officer is to ascertain whether the provisions of the Motor Vehicle Act are



-5-

being observed. The post of MLO is filled up by promotion from MVI with five years service. The posts of MVI and also of RSI/DTI are filled up by direct recruitment.

5. The precise grievance of the applicants is that they are discharging the same duties as persons similarly situated in some of the other States but are being given lesser pay scales. They seek setting aside of the order of 30.4.2004 rejecting their representation and that they should be granted parity of pay scales with other States. They seek the pay scale of Rs.8000-13500, which is equivalent to the pay scale given to the Assistant Regional Transport Officers of the other States. The Motor Vehicle Inspectors claim the scale of Rs.6500-10500 and Rs.5500-9000 for RSI/DTI.

6. In this regard, they draw parity of pay scales with Gujarat, Tamil Nadu, Uttar Pradesh and Delhi, which reads:

Name of the State	Scale of MLO/ corresponding post	Scale of MVI/ corresponding post
Gujarat	8000-13500	6500-10500
Tamil Nadu	8000-13500	6500-10500
UP	8000-13500	6500-10500
Delhi	6500-10500	5000-8000

7. They also claim that even the staff of the Delhi Police, which performs almost the same functions, is getting higher pay scales. In the pre-revised scale, the comparison has been drawn as under:



Post in Deptt. of Transport – Pay Scale	4 th Pay Comm. recommendation	Equivalent post in DP – Pay Scale	4 th Pay Comm. recommendation
MLO/CMVI 650-960	2000-3200	ACP [650-1200]	2000-3500
MVI 550-750	1600-2660	Inspector 550-900	2000-3200

8. It is on these broad facts that they complain of discrimination, which is stated to be hostile and unfair and as such, the above said reliefs are being claimed.

9. The applicants had submitted a representation. A Bench of this Tribunal had directed that the same should be considered and decided. The representation has been rejected with the following order:

“6. The pay scales of various categories of employees in the Government are determined on the basis of the recommendations made from time to time by expert bodies like the Pay Commissions set up by the Government for the purpose. That is why Hon’ble Supreme Court of India has also cautioned that the Court/Tribunals should normally accept the Pay Commission’s recommendations, and since, in the instant case, the Association has already represented before the IV and V Central Pay Commission, and the latter have not given any recommendation whatsoever for revising the Association’s members’ pay scales equivalent to that of their counter-parts in other States of the country, the department is constrained to hold that there is little merit in the case of the petitioners.

7. Otherwise also, on comparison of the nature of duties and jobs performed by RTOs/ARTOs Inspectors (Regional Transport


As Ag

- 7 -

Officer/Assistant Regional Transport Officer/Inspectors) with that of the MLOs/MVIs/Inspectors etc. of the Transport Department, GNCTD (i.e. members of the Association) it is observed that the scope of the same is much wider in the case of the former than in the latter. For instance, an RTO in other States is called 'Regional Transport Officer' and the functions he performs are as under:-

- i) Issuance of driving licenses and renewals thereof
- ii) Registration of new vehicles and transfer of ownership of vehicles
- iii) Ensuring rules and regulations on roads
- iv) Maintenance of high-way-traffic
- v) Enforcement of various provisions of Motor Vehicle Act
- vi) Conducting public awareness programmes by way of various campaigns and safety drives
- vii) Preparation of Challans in respect of erring drivers and vehicles
- viii) Checks on over loaded vehicles
- ix) Impounding of vehicles founding violating of rules.
- x) Issuance of permits to stage carriages, national permits to commercial and tourist vehicles, issuance of permits to Taxi/Autos etc.
- xi) Inspection of Vehicles.

8. Of course, in the discharge of above functions, he is assisted by a couple of ARTOs and Inspectors, but, nevertheless, he performs multifold functions, whereas a 'Motor Licensing Officer' **(commonly called MLO) of the Transport Department of GNCT of Delhi, performs only limited functions,** in as much as he is basically a Licensing Officer, in the sense that he is responsible for only in respect of the functions mentioned at Sr. No.(i) & (ii) above.



He is not at all responsible for maintenance of highway-traffic or enforcement activities of various other kinds. Even in the discharge of his limited aforesaid functions he is assisted by Motor Vehicle Inspectors (MVIs/HQIs etc.). Moreover, activities of the Transport Department of Delhi are highly decentralized in as much as whole of the National Capital Territory of Delhi has been divided into 9 zones, (each headed by an MLO) who is assisted by a couple of inspectors (MVI/HQI etc.); besides, there is a separate full-fledged Enforcement wing manned by Enforcement Officers/Inspectors/ Sub Inspectors/ Asst. Sub Inspectors/ Constables, etc.; for pollution control, we have Pollution Control Officers/Pollution Level Test Inspectors etc. As regards certification of fitness of commercial vehicles, there is another Unit called Auto Rickshaw Unit and Vehicle Inspection Unit at Burari. In other words, nature and scope of duties of MLOs/MVIs etc. of the Transport Department of Delhi is much less in comparison to that of RTOs/ARTOs/Inspectors of other States of the country.

9. It is also observed that the case of the petitioners had been duly considered by the IV and V Central Pay Commission and Ministry of Finance of Govt. of India and since no recommendations whatsoever had been received by this department from the aforesaid higher authorities, it is safely presumed by the department that the case of the petitioners had been duly considered but rejected."

10. In the reply filed, the application has been contested.

11. Separate replies have been field by Respondent No.1 and also by Respondents No.2 and 3. Respondents No.2 and 3 have offered the main contest. It is denied that the applicants can claim discrimination. According to the respondents, the nature of duties performed by the applicants are not more difficult or arduous as compared to the duties of the other similarly situated MVOs of other States. The RTOs and ARTOs of various States perform

As Ag

9

multi-fold functions inclusive of issuance of driving licences, registration of new vehicles and transfer of ownership, ensuring rules and regulations on the roads, maintenance of highway traffic, enforcement of various provisions of Motor Vehicle Act.

12. Besides multi-farious other duties, in Delhi the MLO performs limited functions such as Licensing Officer in the sense that he is responsible only for issuance of driving licenses and renewals thereof and registration of new vehicles and transfers thereof. Even in the discharge of these limited functions, he is assisted by the MVIs/RSIs/DTIs/DIs. The MLO is in no way responsible for maintenance of Highway traffic or enforcement activities of various other kinds. To meet out the work relating to Pollution Control, there is a separate cadre consisting of Pollution Level Test Inspectors and Pollution Control Officers. The work of certification of fitness of commercial vehicles is done by the Vehicles Inspection Unit. Thus, it is claimed that their duties cannot be compared with those of other States. It is even alleged that they do not perform more arduous similar duties than those of the corresponding persons in the Delhi Police.

13. We have heard the parties' counsel and have seen the relevant record.

14. During the course of the submissions, a feeble attempt was made to claim that the corresponding posts held in Delhi Police are taking better scale and therefore, the applicants should also be granted the same.

B. Ag

15. At the outset, we may refer with advantage to an order of this Tribunal in the case of **TRANSPORT EMPLOYEES WELFARE ASSOCIATION THROUGH ITS PRESIDENT & OTHERS v. UNION OF INDIA & OTHERS**, OA No.2441/2004, decided on 4th July, 2005. Some Inspectors, Sub-Inspectors, Head Constables and Constables in the Enforcement Wing of Transport Department raised a similar argument. It was rejected holding:

“19. It goes without saying and was rightly pointed by the counsel for the Delhi Administration, that officials working in Delhi Police have to undergo more arduous duties like prevention of crime, control of riots, investigation of cases, security of VIPs and their duties involve odd hours. The applicants on the contrary are just performing the duties of Enforcement of Motor Vehicles Act and Rules framed there under.

20. The persons working in Delhi Traffic Police are part and parcel of Delhi Police and if necessary, their cadres can be changed. Therefore, they have rightly been granted the same scales as other persons in Delhi Police.

21. In the peculiar facts, therefore, the applicants indeed cannot claim that they have to face hostile discrimination. It cannot in the peculiar facts be termed that the claim of the applicants is liable to be so allowed, merely because they are also uniformed and they do certain works under the Motor Vehicles Act.”

16. Identical is the position in the present case. We find that on parity of reasoning, this particular plea must fail.

17. However, the learned counsel for the applicants took special pains to contend that the applicants are being discriminated because in States, to which we have referred to above, persons performing similar duties are having higher pay

As Ag

—(11—

scales. He also took pains to refer to us the large number of documents in the rejoinder to bring home the fact that the officers working in the applicants' Association are also performing other duties and the plea of the respondents that they are only having limited functions, is not correct.

18. We have carefully considered the said submissions.

19. So far as the other States are concerned, we have already referred to above the provisions of Section 213 of the Motor Vehicles Act. It makes it clear that special powers have been given to each of the State to formulate its own Department. They have their own cadre and set of rules. Therefore, they can fix their pay scales. On that ground, therefore, one State has to fix their own pay scales. It cannot be taken that this Tribunal should fix the scales of all the States.

20. Not only that, the applicants at best even placed on record the scales of three States but feel shy of bringing on record the scales of other States and this Tribunal thus cannot be held to be armed fully with the facts in this regard.

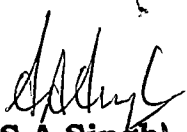
21. There is another way of looking at the matter. Question, pertaining to fixation of pay scales, falls basically within the jurisdiction of the Pay Commission. It is for the Pay Commissions to look into the said facts. Scope for judicial review is limited. This Tribunal would only interfere if there is a hostile discrimination. Because of some of the other States are granting the higher pay scales will not prompt us to conclude that there is a hostile discrimination.



22. As regards the point put forward that the applicants have also been doing some other duties and the plea of the respondents is incorrect, once again, though it appears that some of the officers of the Association of Applicant No.1 have been doing some other duties, but that cannot be taken to be a duty that is performed every day. It appears that they were additional duties rather than routine duties.

23. Be that as it may, it cannot, in totality of the facts, be taken that there is hostile discrimination vis-à-vis other similarly situated officers, to prompt this Tribunal to interfere. Therefore, we deem it unnecessary to probe further into this controversy.

24. For these reasons, the Original Application being without merit must fail and is accordingly dismissed.


(S.A.Singh)
Member (A)


(V.S.Aggarwal)
Chairman

/NSN/