

**Central Administrative Tribunal
Principal Bench**

OA No. 1669 of 2004

New Delhi this the 30th day of November, 2004.

**Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. Sarweshwar Jha, Member (A)**

1. Anju Sachdeva,
Assistant Curator (Anthropology)
Group-B Non-Gazetted
National Museum
Janpath, New Delhi.
2. Sanjib Kumar Singh,
Deputy Curator (Exhibition Cell),
Group-B Non-Gazetted
National Museum
Janpath, New Delhi.
3. J.C. Grover,
Assistant Curator (PH&Arch.),
Group-B Non-Gazetted
National Museum
Janpath, New Delhi.
4. Dr. B.K. Sahay,
Assistant Curator (N&E),
Group-B Non-Gazetted
National Museum
Janpath, New Delhi.
5. Tejpal Singh,
Assistant Curator (A & H),
Group-B Non-Gazetted
National Museum
Janpath, New Delhi.Applicants

(By Advocate: Shri Rakesh Kumar Singla)

-versus-

1. Union of India through
Secretary,
Ministry of Tourism and Culture,
Department of Culture,
Shastri Bhawan, New Delhi.
2. National Museum,
Through: Director General,
National Museum,
Janpath, New Delhi.Respondents

(By Advocate: Shri G.R. Choubey for Sh. Rajender Nishchal)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J)

By virtue of the present original application, applicants seek quashing of order dated 24.02.2004 and 03.03.2004 whereby their request for resumption of pay scale of Technical Assistant as recommended by 4th Central Pay Commission w.e.f. 1.1.1986 had been turned down.

2. Applicants are part of Curatorial Staff of the National Museum and working as Technical Assistants. Earlier there were two cadre of posts in two different scales of pay i.e. Curatorial Associate and Technical Assistant. 4th Central Pay Commission recommended revised scale of pay of Rs. 1640-2900/-, which was implemented after merger of the said posts by the National Museum vide their order dated 22.10.1986. However, by another order dated 15.3.2001, the posts were re-designated as Group 'A' and Group 'B' posts with their existing pay scales in the National Museum with effect from 15.04.2002. The existing designation of Curatorial Associate has been revised and re-designated as Assistant Curator in the existing pay scale of Rs. 5500-9000. Applicants were initially given the pay scale of Rs. 1640-2900/-w.e.f. 1.1.1986. However, vide an order dated 20.04.1998, the said scale of pay of Rs. 1640-2900/- had been withdrawn and the pay of the Technical Assistants was re-fixed in the old scale of pay of Rs. 1400-2300/-.

3. This withdrawal was assailed before the Tribunal in OA No. 2567/2003 wherein by an order dated 21.10.2003, directions were issued to pass a reasoned order. Having passed the order extending the benefit w.e.f. 1.1.1996, the matter for grant of the same w.e.f. 1.1.1986

was left to the Government, which has rejected the same giving rise to the present Original Application.

4. Learned counsel of the applicants contended that in para 71.67 of the 5th Central Pay Commission's recommendations, though the merger of the posts of Technical Assistant and Curatorial Associates has been recommended with a scale of pay Rs. 1640-2900/- but in the light that the recommendations were only prospective, decision for effect of the order and its retrospectivity w.e.f. 1.1.1986 was left to the Government. In the above backdrop, it is stated that whereas in other Departments and Ministries, the same pay scale has been made effective from 01.01.1986 and the National Museum has accorded them from 1.1.1996. Therefore, for the period from 1.4.1986 to 31.12.1995, applicants are entitled to assumption of pay and any invidious discrimination to a class, without any intelligible differentia and object, sought to be achieved, is violative of Articles 14 & 16 of the Constitution of India.

5. On the other hand, learned counsel for the respondents orally addressed his contentions as their right to file the counter stood forfeited. It is contended that the action is in accordance with law. The Government has considered the recommendations of 5th Central Pay Commission but has not applied the pay scales retrospectively, which, as a policy decision, cannot be interfered in a judicial review.

6. On careful consideration of the rival contentions of the parties, we are of the considered view that principle of equality enshrined under Article 14 of the Constitution of India prohibits differential treatment to be meted out to similarly circumstance and persons forming same class. In order to sustain the differential treatment, it is to be established that it has some intelligible differentia and reasonable nexus with the object sought to be achieved. In other Departments and Ministries the pay scale

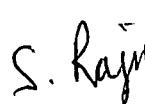
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was made effective from 1.1.1986 whereas non-extension of the same from the said date, for want of any justification and reasons in the impugned order, the stand of the Government is not well founded.

7. In the result, for the above reasons, we partly allow this Original Application. Impugned orders are set aside. Respondents are directed to re-examine the matter ⁱⁿ extending the benefit from 1.1.1986 to 31.12.1995 with assumption of pay scales and arrears to the applicants having regard to the pay scales in accordance with the principle of equality enshrined under Article 14 of the Constitution of India by passing a detailed, reasoned and speaking order within a period of two months from the date of receipt of the certified copy of this order. It goes without saying that if the applicants are still aggrieved, it shall be open for them to take recourse in accordance with law. No costs.



(Sarweshwar Jha)
Member (A)



(Shanker Raju)
Member (J)

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